

## Printed as Passed

October 18 (legislative day, September 18), 1989

Ordered to be printed as passed

### *In the Senate of the United States,*

*October 13 (legislative day, September 18), 1989.*

*Resolved*, That the bill from the House of Representatives (H.R. 3299) entitled “An Act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990”, do pass with the following

## AMENDMENT:

Strike out all after the enacting clause and insert:

1 *SECTION 1. SHORT TITLE.*

2       *This Act may be cited as “The Omnibus Budget Recon-*  
3 *ciliation Act of 1989”.*

4 ***TITLE I—COMMITTEE ON AGRI-***  
5 ***CULTURE, NUTRITION, AND***  
6 ***FORESTRY***

7 *SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.*

8       *(a) SHORT TITLE.—This title may be cited as the*  
9 *“Agricultural Reconciliation Act of 1989”.*

10       *(b) TABLE OF CONTENTS.—The table of contents is as*  
11 *follows:*



*Sec. 1001. Short title; table of contents.*

*Subtitle A—Agricultural Commodity Programs*

*Sec. 1101. Cotton acreage reduction program.*

*Sec. 1102. Purchase price for nonfat dry milk and butter.*

*Sec. 1103. Reduction of deficiency payments for 1990 crops.*

*Sec. 1104. Planting of soybeans, sunflowers, and safflowers on permitted acreage.*

*Subtitle B—Agricultural Trade Programs*

*Sec. 1201. Export enhancement program.*

*Sec. 1202. Targeted export assistance.*

*Subtitle C—General Provisions*

*Sec. 1301. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.*

*Sec. 1302. Calculation of premiums by Farm Credit System Insurance Corporation.*

**1      *Subtitle A—Agricultural Commodity***  
**2                                      *Programs***

**3      *SEC. 1101. COTTON ACREAGE REDUCTION PROGRAM.***

**4              *Effective only for the 1990 crop of upland cotton, sec-***  
**5      *tion 103A(f)(2)(A) of the Agricultural Act of 1949***  
**6      *(7 U.S.C. 1444-1(f)(2)(A)) is amended by striking “(not to***  
**7      *exceed 25 percent)” and inserting “(not to exceed 25 percent***  
**8      *or, in the case of the 1990 crop, if the Secretary projects a***  
**9      *carryover of more than 7,000,000 bales (as of July 31, 1991)***  
**10     *of upland cotton, not to exceed 30 percent)”.***

**11     *SEC. 1102. PURCHASE PRICE FOR NONFAT DRY MILK AND***  
**12                                      *BUTTER.***

**13             *Section 201(d)(1) of the Agricultural Act of 1949 (7***  
**14     *U.S.C. 1446(d)(1)) is amended—***  
**15                      *(1) in subparagraph (C)—***

1           (A) in clause (ii), by inserting after “Except  
2           as provided in” the following: “clause (iii) and”;  
3           and

4           (B) by adding at the end the following new  
5           clause:

6           “(iii) In carrying out this paragraph during cal-  
7           endar year 1990, the Secretary shall offer to purchase  
8           butter and nonfat dry milk for not less than \$1.10 per  
9           pound for butter and \$0.8475 per pound for nonfat dry  
10          milk, except that the Secretary may allocate the rate of  
11          price support between the purchase prices for nonfat  
12          dry milk and butter in such manner as the Secretary  
13          determines will result in the lowest level of expendi-  
14          tures by the Commodity Credit Corporation and shall  
15          notify the Committee on Agriculture of the House of  
16          Representatives and the Committee on Agriculture,  
17          Nutrition, and Forestry of the Senate of such determi-  
18          nation.”; and

19          (2) in subparagraph (D)(i), by striking “each of  
20          the calendar years 1988 and 1990” and inserting  
21          “calendar year 1988”.

1 **SEC. 1103. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990**

2 **CROPS.**

3 (a) *IN GENERAL.*—Title IV of the Agricultural Act of  
4 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the  
5 end the following new section:

6 **“SEC. 425. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990**

7 **CROPS.**

8 “(a) *IN GENERAL.*—Notwithstanding any other provi-  
9 sion of law, the amount of deficiency payments made avail-  
10 able to producers of the 1990 crops of wheat, feed grains,  
11 upland cotton, and rice under sections 107D(c), 105C(c),  
12 103A(c), and 101A(c), respectively, shall be reduced by—

13 “(1) in the case of wheat, 2.33 cents per bushel;

14 “(2) in the case of corn, 2.33 cents per bushel  
15 (and a comparable amount for other feed grains, as de-  
16 termined by the Secretary);

17 “(3) in the case of upland cotton, .515 cents per  
18 pound; and

19 “(4) in the case of rice, 5.15 cents per hundred-  
20 weight.

21 “(b) *APPLICATION TO ADVANCE DEFICIENCY PAY-*  
22 *MENTS.*—To the extent practicable, the Secretary shall apply  
23 the reduction required under subsection (a) to any advance  
24 deficiency payment made available to producers of the 1990  
25 crops under section 107C.”



1       (b) *CONFORMING AMENDMENT.*—*Effective only for the*  
 2 *1990 crops of wheat, feed grains, upland cotton, and rice,*  
 3 *section 107C(a)(2)(G) of such Act (7 U.S.C. 1445b–*  
 4 *2(a)(2)(G)) is amended by inserting after “subsection” the*  
 5 *following: “(taking into consideration any reduction in the*  
 6 *payment made under section 425)”.*

7       **SEC. 1104. PLANTING OF SOYBEANS, SUNFLOWERS, AND SAF-**  
 8                               **FLOWERS ON PERMITTED ACREAGE.**

9       (a) *PLANTING OF SOYBEANS, SUNFLOWERS, AND*  
 10 *SAFFLOWERS ON PERMITTED ACREAGE.*—*Effective only*  
 11 *for the 1990 crops, subsection (e) of section 504 the Agricul-*  
 12 *tural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as*  
 13 *follows:*

14       “(e) Notwithstanding any other provision of this Act—

15               “(1) *Effective for the 1990 crops, the Secretary*  
 16 *shall, subject to paragraph (2), permit producers on a*  
 17 *farm to plant soybeans, sunflowers, or safflowers on a*  
 18 *portion specified by the producer (but in any event not*  
 19 *more than 25 percent) of the producers’ 1990 wheat,*  
 20 *feed grain, upland cotton, extra long staple cotton, and*  
 21 *rice permitted acreage, as determined by the Secretary.*

22               “(2)(A) *The Secretary shall establish a sign-up*  
 23 *period during which the producers on a farm, partici-*  
 24 *pating in the 1990 crop wheat, feed grain, upland*  
 25 *cotton, extra long staple cotton, or rice price support*

1        *and production adjustment program, must state their*  
2        *intentions regarding use of the increased planting pro-*  
3        *vision under paragraph (1).*

4            *“(B) After termination of the sign-up period*  
5        *under subparagraph (A), the Secretary shall estimate*  
6        *whether, based on the anticipated additional soybean,*  
7        *sunflower, and safflower plantings for the crop, the av-*  
8        *erage market price for the 1990 crop of soybeans will*  
9        *be below 115 percent of the loan rate established for the*  
10       *1989 crop of soybeans.*

11           *“(C) If the Secretary estimates that the average*  
12       *market price for the 1990 crop of soybeans will be*  
13       *below 115 percent of such loan rate, the Secretary*  
14       *shall reduce the percentage of permitted acreage on the*  
15       *farm that may be planted to soybeans, sunflowers, and*  
16       *safflowers to a level, or prohibit such plantings, as is*  
17       *necessary to ensure, to the extent practicable, that the*  
18       *average soybean market price does not fall below 115*  
19       *percent of such loan rate.*

20           *“(D) The Secretary shall submit to the Commit-*  
21       *tee on Agriculture of the House of Representatives and*  
22       *the Committee on Agriculture, Nutrition, and Forestry*  
23       *of the Senate a statement setting forth the reasons for*  
24       *any reduction in the permitted planting percentage, or*  
25       *prohibition on such plantings, under this paragraph.*

1           “(3)(A) For the purposes of determining the farm  
2       acreage base or the crop acreage bases for the farm,  
3       any acreage on the farm on which soybeans, sunflow-  
4       ers, or safflowers are planted under this subsection  
5       shall be considered to be planted to the program crop  
6       for which soybeans, sunflowers, or safflowers are sub-  
7       stituted.

8           “(B) The Secretary may not make program bene-  
9       fits other than soybean or sunflower seed price support  
10      loans and purchases available to producers with respect  
11      to acreage planted to soybeans, sunflowers, or safflow-  
12      ers under this subsection and shall ensure that the crop  
13      acreage bases established for the farm and the farm  
14      acreage base are not increased due to such plantings.”.

15      (b) *FEED GRAIN ACREAGE LIMITATION PROGRAM.*—  
16      Effective only for the 1990 crop of feed grains, section  
17      105C(f)(1)(C) of such Act (7 U.S.C. 1444e(f)(1)(C)) is  
18      amended—

19           (1) by striking “(C)”, “1990”, “(i)”, and “(ii)”  
20      and inserting “(C)(i)”, “1989”, “(I)”, and “(II)”, re-  
21      spectively; and

22           (2) by adding at the end the following new clause:

23      “(ii) In the case of the 1990 crop of feed grains, if the  
24      Secretary estimates, not later than September 30, 1989, that  
25      the quantity of corn on hand in the United States on the first

1 day of the marketing year for that crop (not including any  
2 quantity of corn of that crop) will be—

3           “(I) more than 2,000,000,000 bushels, the Secre-  
4 tary shall provide for an acreage limitation program  
5 (as described in paragraph (2)) under which the acre-  
6 age planted to feed grains for harvest on a farm would  
7 be limited to the feed grain crop acreage base for the  
8 farm for the crop reduced by not less than 12½ percent  
9 nor more than 20 percent;

10           “(II) less than 2,000,000,000 bushels but more  
11 than 1,800,000,000 bushels, the Secretary shall pro-  
12 vide for an acreage limitation program (as described in  
13 paragraph (2)) under which the acreage planted to feed  
14 grains for harvest on a farm would be limited to the  
15 feed grain crop acreage base for the farm for the crop  
16 reduced by not less than 10 percent nor more than  
17 12½ percent; or

18           “(III) 1,800,000,000 bushels or less, the Secre-  
19 tary may provide for an acreage limitation program  
20 (as described in paragraph (2)) under which the acre-  
21 age planted to feed grains for harvest on a farm would  
22 be limited to the feed grain crop acreage base for the  
23 farm for the crop reduced by not more than  
24 10 percent.”.

**Subtitle B—Agricultural Trade  
Programs**

**SEC. 1201. EXPORT ENHANCEMENT PROGRAM.**

(a) *REDUCTION OF EXPENDITURES.*—During fiscal year 1990, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note), the Commodity Credit Corporation shall not make available to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than \$650,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

**SEC. 1202. TARGETED EXPORT ASSISTANCE.**

Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking “and” at the end of paragraph (2);

and

(2) by striking paragraph (3) and inserting the following:

“(3) for the fiscal year 1989, the Secretary shall use under this section not less than \$325,000,000 of the funds of, or commodities owned by, the Corporation; and

1           “(4) for the fiscal year 1990, the Secretary shall  
 2           use under this section not less than \$225,000,000 of  
 3           the funds of, or commodities owned by, the Corpora-  
 4           tion.”.

## 5           **Subtitle C—General Provisions**

### 6   **SEC. 1301. PURCHASES OF FINANCIAL ASSISTANCE CORPORA-** 7                           **TION STOCK BY FARM CREDIT SYSTEM INSTITU-** 8                           **TIONS.**

9           (a) *DELAYED EFFECTIVE DATE FOR STOCK PUR-*  
 10          *CHASE REQUIREMENT.*—Notwithstanding any other provi-  
 11          sion of law, the amendments to section 6.29 of the Farm  
 12          Credit Act of 1971 (12 U.S.C. 2278b–9) made by section  
 13          646 of the Rural Development, Agriculture, and Related  
 14          Agencies Appropriations Act, 1989 (Public Law 100–460;  
 15          102 Stat. 2266) shall be effective on October 1, 1992.

16          (b) *PAYMENTS.*—

17               (1) *FOUR ANNUAL PAYMENTS.*—Notwithstanding  
 18          any other provision of law, the Financial Assistance  
 19          Corporation shall pay, out of the Trust Fund estab-  
 20          lished under section 6.25 of the Farm Credit Act of  
 21          1971 (12 U.S.C. 2278b–5), to each of the institutions  
 22          of the Farm Credit System that purchased stock in the  
 23          Financial Assistance Corporation under section 6.29  
 24          of the Farm Credit Act of 1971, four annual payments  
 25          as provided in this subsection.

1           (2) *TIMING OF PAYMENTS.*—*The annual pay-*  
2           *ments provided for by this subsection shall be made*  
3           *available as soon as practicable after October 1 of each*  
4           *of the calendar years 1989 through 1992.*

5           (3) *CALCULATION OF FIRST PAYMENT.*—*The*  
6           *first annual payment made available under this sub-*  
7           *section shall be in an amount equal to—*

8                   (i) *a percentage equal to 1.5 times the aver-*  
9                   *age rate of interest received by the Financial*  
10                  *Assistance Corporation from March 30, 1988,*  
11                  *through September 30, 1989; times*

12                  (ii) *the difference between \$177,000,000 and*  
13                  *4.4 percent of the amount of the cumulative*  
14                  *amount of the bonds issued by the Financial*  
15                  *Assistance Corporation by September 30, 1989.*

16           (4) *CALCULATION OF REMAINING PAYMENTS.*—  
17           *The second, third, and fourth payments made available*  
18           *under this subsection shall be in an amount equal to—*

19                   (i) *a percentage equal to the average rate of*  
20                   *interest received by the Financial Assistance Cor-*  
21                   *poration during each of the fiscal years 1990*  
22                   *through 1992; times*

23                   (ii) *the difference between \$177,000,000 and*  
24                  *4.4 percent of the amount of the cumulative*

1           *amount of the bonds issued by September 30 of*  
 2           *each of such fiscal years.*

3           (5) *DISTRIBUTION OF ANNUAL PAYMENTS.—*

4           *Annual payments due under this subsection shall be*  
 5           *made available to each institution described in para-*  
 6           *graph (1) in an amount equal to the total amount of*  
 7           *annual payments to be made available times the ratio*  
 8           *of the amount of stock each institution purchased divid-*  
 9           *ed by \$177,000,000.*

10 *SEC. 1302. CALCULATION OF PREMIUMS BY FARM CREDIT*  
 11 *SYSTEM INSURANCE CORPORATION.*

12           (a) *IN GENERAL.—Section 5.55 of the Farm Credit*  
 13 *Act of 1971 (12 U.S.C. 2277a-4(a)) is amended—*

14           (1) *by striking subsection (a) and inserting the*  
 15 *following new subsection:*

16           “(a) *AMOUNT IN FUND NOT EXCEEDING SECURE*  
 17 *BASE AMOUNT.—*

18           “(1) *IN GENERAL.—Until the aggregate of*  
 19 *amounts in the Farm Credit Insurance Fund exceeds*  
 20 *the secure base amount, the annual premium due from*  
 21 *any insured System bank for any calendar year shall*  
 22 *be equal to the sum of—*

23           “(A) *the annual average principal outstand-*  
 24 *ing (as adjusted under paragraph (2)) for such*



1           year on loans made by the bank that are in accru-  
2           al status, multiplied by 0.0015; and

3           “(B) the annual average principal outstand-  
4           ing (as adjusted under paragraph (2)) for such  
5           year on loans made by the bank that are in non-  
6           accrual status, multiplied by 0.0025.

7           “(2) *ADJUSTMENT OF ANNUAL AVERAGE PRIN-*  
8           *CIPAL OUTSTANDING.*—The Corporation, under proce-  
9           dures and criteria established by regulation, shall  
10          adjust downward the annual average principal out-  
11          standing for a bank during a year to exclude all or a  
12          portion of any principal outstanding on Government-  
13          guaranteed loans made by the bank and loans made by  
14          associations serviced by such bank (as described in  
15          subsection (d)(1)), as appropriate on an actuarial basis  
16          to more accurately reflect the reduced risks associated  
17          with such loans for the holders of insured obligations of  
18          insured System banks.

19          “(3) *DEFINITION OF GOVERNMENT-GUARAN-*  
20          *TEED LOANS.*—As used in this subsection and subsec-  
21          tion (c), the term ‘Government-guaranteed loan’ means  
22          a loan, or portion of a loan, made by an insured  
23          System bank that carries a full faith and credit per-  
24          formance or loss guarantee or surety or an uncondi-  
25          tional guarantee of the United States Government or

1     *any State government, or of any department, agency,*  
2     *bureau, board, commission, or establishment thereof, or*  
3     *any corporation wholly owned directly or indirectly by*  
4     *the United States or any State.”;*

5             (2) in subsection (b), by inserting after “for the  
6     *following calendar year” the following: “, as deter-*  
7     *mined under subsection (a),”;*

8             (3) in subsection (c), by inserting after “at such  
9     *time” the following: “(adjusted downward to exclude,*  
10     *from that portion of such obligations attributable to*  
11     *Government-guaranteed loans made by insured System*  
12     *banks and loans made by associations serviced by such*  
13     *banks (as described in subsection (d)(1)), an amount*  
14     *that reflects all risk-based reductions of principal out-*  
15     *standing on such guaranteed loans for purposes of es-*  
16     *tablishing premium rates under subsection (a), as*  
17     *determined by the Corporation)”;* and

18             (4) in subsection (d), by striking paragraph (1)  
19     *and inserting the following new paragraph:*

20             “(1) by any production credit association or any  
21     *other association making direct loans under authority*  
22     *transferred to it under section 7.6, that is able to make*  
23     *such loans because such association is receiving, or has*  
24     *received, funds provided through the Farm Credit*  
25     *Bank;”.*

1 (b) *EFFECTIVE DATE.*—The amendments made by  
 2 subsection (a) shall become effective on January 1, 1989.

3 ***TITLE II—COMMITTEE ON BANK-***  
 4 ***ING, HOUSING, AND URBAN***  
 5 ***AFFAIRS***

6 ***SEC. 201. EXTENSION OF FLOOD INSURANCE PROGRAM.***

7 (a) *IN GENERAL.*—Section 1319 of the National Flood  
 8 Insurance Act of 1968 (42 U.S.C. 4026) is amended by  
 9 striking “September 30, 1989” and inserting “Septem-  
 10 ber 30, 1991”.

11 (b) *EMERGENCY IMPLEMENTATION.*—Section 1336(a)  
 12 of the National Flood Insurance Act of 1968 (42 U.S.C.  
 13 4056(a)) is amended by striking “September 30, 1989” and  
 14 inserting “September 30, 1991”.

15 (c) *STRUCTURES ON LAND SUBJECT TO IMMINENT*  
 16 *COLLAPSE OR SUBSIDENCE.*—Section 1306(c)(7) of the  
 17 National Flood Insurance Act of 1968 (42 U.S.C.  
 18 4013(c)(7)) is amended by striking “September 30, 1989”  
 19 and inserting “September 30, 1991”.

20 ***SEC. 202. FLOOD ZONE DATA.***

21 Section 1360(a) of the National Flood Insurance Act of  
 22 1968 (42 U.S.C. 4101(a)) is amended by striking paragraph  
 23 (2) and inserting the following:

24 “(2) establish or update flood-risk zone data in all  
 25 such areas, and make estimates with respect to the

1 rates of probable flood caused loss for the various flood  
 2 risk zones for each of these areas until the date speci-  
 3 fied in section 1319.”

4 **TITLE III—COMMITTEE ON COM-**  
 5 **MERCE, SCIENCE, AND TRANS-**  
 6 **PORTATION**

7 **SEC. 301. FEDERAL COMMUNICATIONS COMMISSION FEES,**  
 8 **FINES, AND PENALTIES.**

9 (a) *FCC FEES.*—

10 (1) *UPDATE OF FEE SCHEDULES.*—Section 8 of  
 11 the Communications Act of 1934 (47 U.S.C. 158) is  
 12 amended by adding at the end the following:

13 “(g) Until modified pursuant to subsection (b) of this  
 14 section, the Schedule of Charges which the Federal Commu-  
 15 nications Commission shall prescribe pursuant to subsection  
 16 (a) of this section shall be as follows:

“SCHEDULE OF CHARGES

Service	Fee amount
<b>PRIVATE RADIO SERVICES</b>	
<b>1. Marine Coast Stations</b>	
a. New License (per station).....	\$70.00
b. Modification of License (per station).....	70.00
c. Renewal of License (per station).....	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	100.00
e. Assignments (per station).....	70.00
f. Transfers of Control (per station).....	35.00
g. Request for Waiver (per station)	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
<b>2. Ship Stations</b>	
a. New License (per application).....	35.00
b. Modification of License (per application).....	35.00
c. Renewal of License (per application).....	35.00

d. Transfer of Control (per call sign).....	35.00
e. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station).....	155.00
b. Modification of License (per station).....	155.00
c. Renewal of License (per station).....	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
e. Assignments (per station).....	155.00
f. Transfers of Control (per station).....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
4. Aviation (Ground Stations)	
a. New License (per station).....	70.00
b. Modification of License (per station).....	70.00
c. Renewal of License (per station).....	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	100.00
e. Assignments (per station).....	70.00
f. Transfers of Control (per station).....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
5. Aircraft Stations	
a. New License (per application).....	35.00
b. Modification of License (per application).....	35.00
c. Renewal of License (per application).....	35.00
d. Transfer of Control (per call sign).....	35.00
e. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
6. Land Mobile Radio Stations	
a. New License (per call sign).....	35.00
b. Modification of License (per call sign).....	35.00
c. Renewal of License (per call sign).....	35.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
e. Assignments (per station).....	35.00
f. Transfers of Control (per call sign).....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
h. Reinstatement (per call sign).....	35.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign).....	35.00
(ii) Modification of License (per call sign).....	35.00
(iii) Renewal of License (per call sign).....	35.00
(iv) Waiting List (annual charge per application).....	35.00
(v) Special Temporary Authority (Initial, Modifica- tions, Extensions).....	35.00
(vi) Assignments (per call sign).....	35.00
(vii) Transfers of Control (per call sign).....	35.00

(viii) Request for Waiver	
(1) Routine (per request) .....	105.00
(2) Non-Routine (per rule section/per station) .....	105.00
(ix) Reinstatements (per call sign) .....	35.00
j. Private Carrier Licenses	
(i) New License (per call sign) .....	35.00
(ii) Modification of License (per call sign) .....	35.00
(iii) Renewal of License (per call sign) .....	35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions) .....	35.00
(v) Assignments (per call sign) .....	35.00
(vi) Transfers of Control (per call sign) .....	35.00
(vii) Request for Waiver	
(1) Routine (per request) .....	105.00
(2) Non-Routine (per rule section/per station) .....	105.00
(viii) Reinstatements (per call sign) .....	35.00
7. Amateur License	
a. New License (per application) .....	35.00
b. Modification of License (per application) .....	35.00
c. Renewal of License (per application) .....	35.00
d. Reciprocal Permit for Alien Amateur License .....	35.00
e. Renewal or Modification of Amateur Club, RACES, or Military Recreation Station License .....	35.00
f. Special Temporary Authority (Initial, Modifications, Extensions) .....	35.00
g. Request for Waiver	
(i) Routine (per request) .....	105.00
(ii) Nonroutine (per rule section/per station) .....	105.00
8. General Mobile Radio Service	
a. New License (per call sign) .....	35.00
b. Modifications of License (per call sign) .....	35.00
c. Renewal of License (per call sign) .....	35.00
d. Request for Waiver	
(i) Routine (per request) .....	105.00
(ii) Nonroutine (per rule section/per station) .....	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions) .....	35.00
f. Transfer of control (per call sign) .....	35.00
9. Restricted Radiotelephone Operator Permit .....	35.00
10. Request for Duplicate Station License (all services) .....	35.00
11. Hearing (Comparative New and Modifications) .....	6,760.00

## EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers) .....	285.00
b. All Other Devices .....	735.00
c. Modifications and Class II Permissive Changes .....	35.00
d. Request for Confidentiality .....	105.00
2. Type Acceptance	
a. All Devices .....	370.00
b. Modifications and Class II Permissive Changes .....	35.00
c. Request for Confidentiality .....	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications) .....	1,465.00

b. Without Testing (including <i>Minor Modifications</i> ).....	170.00
c. Request for Confidentiality.....	105.00
4. Notifications.....	115.00
5. Advance Approval of Subscription TV System.....	2,255.00
a. Request for Confidentiality.....	105.00
6. Assignment of Grantee Code for Equipment Identification.....	35.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per application).....	35.00
b. Modification to Existing Construction Permit and Sta- tion Authorization (per application) .....	35.00
c. Renewal of Station Authorization (per application).....	35.00
d. Assignment or Transfer of Control (per application).....	35.00
e. Special Temporary Authority (per application) .....	35.00
f. Additional Charge for Applications Containing Requests to Withhold Information From Public Inspection (per application).....	35.00

#### MASS MEDIA SERVICES

1. Commercial TV Stations	
a. New or Major Change Construction Permits.....	2,535.00
b. Minor Change.....	565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal) .....	6,760.00
d. License.....	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315).....	565.00
(ii) Short Form (Form 316) .....	80.00
f. Renewal.....	100.00
g. Call Sign (New or Modification).....	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent).....	100.00
i. Extension of Time to Construct or Replacement of CP....	200.00
j. Permit to Deliver Programs to Foreign Broadcast Sta- tions .....	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel.....	1,565.00
l. Ownership Report (per report) .....	35.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station.....	2,255.00
(ii) FM Station .....	2,030.00
b. Minor Change	
(i) AM Station.....	565.00
(ii) FM Station .....	565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal) .....	6,760.00
d. License	
(i) AM.....	370.00
(ii) FM .....	115.00
(iii) AM Directional Antenna.....	425.00
(iv) FM Directional Antenna.....	355.00
(v) AM Remote Control.....	35.00

<i>e. Assignment or Transfer</i>	
(i) Long Form (Forms 314/315).....	565.00
(ii) Short Form (Form 316) .....	80.00
<i>f. Renewal</i> .....	100.00
<i>g. Call Sign (New or Modification)</i> .....	55.00
<i>h. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
<i>i. Extension of Time to Construct or Replacement of CP</i> ....	200.00
<i>j. Permit to Deliver Programs to Foreign Broadcast Sta-         tions</i> .....	55.00
<i>k. Petition for Rulemaking for New Community of License         or Higher Class Channel</i> .....	1,565.00
<i>l. Ownership Report (per report)</i> .....	35.00
3. <i>Commercial FM Translators</i>	
<i>a. New or Major Change Construction Permit</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
4. <i>Commercial TV Translators and LPTV Stations</i>	
<i>a. New or Major Change Construction Permit</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
5. <i>Commercial Auxiliary Services (Includes Remote Pickup sta-     tions, TV Auxiliary Broadcast stations, Aural Broadcast     STL and Intercity Relay stations, and Low Power Auxiliary     stations)</i>	
<i>a. Major Actions</i> .....	85.00
<i>b. Renewals</i> .....	35.00
<i>c. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
6. <i>Commercial FM/TV Boosters</i>	
<i>a. New and Major Change Construction Permits</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
7. <i>International Broadcast Station (Commercial)</i>	
<i>a. New Construction Permit and Facilities Change CP</i> .....	1,705.00
<i>b. License</i> .....	385.00
<i>c. Assignment or Transfer (per station)</i> .....	60.00
<i>d. Renewal</i> .....	95.00
<i>e. Frequency Assignment and Coordination (per frequency         hour)</i> .....	35.00
<i>f. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
8. <i>Cable Television Service</i>	
<i>a. Cable Television Relay Service</i>	
(i) Construction Permit.....	155.00
(ii) Assignment or Transfer.....	155.00



(iii) <i>Renewal</i> .....	155.00
(iv) <i>Modification</i> .....	155.00
(v) <i>Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)</i> .....	100.00
b. <i>Cable Special Relief Petition</i> .....	790.00
c. <i>76.12 Registration Statement (per statement)</i> .....	35.00
d. <i>Aeronautical Frequency Usage Notifications (per notice)</i> .....	35.00
e. <i>Aeronautical Frequency Usage Waivers (per waiver)</i> .....	35.00
9. <i>Direct Broadcast Satellite</i>	
a. <i>New or Major Change Construction Permit</i>	
(i) <i>Application for Authorization to Construct a Direct Broadcast Satellite</i> .....	2,030.00
(ii) <i>Issuance of Construction Permit &amp; Launch Authority</i> .....	19,710.00
(iii) <i>License to Operate Satellite</i> .....	565.00
b. <i>Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)</i> .....	6,760.00
c. <i>Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)</i> .....	100.00

## COMMON CARRIER SERVICES

1. <i>All Common Carrier Services</i>	
a. <i>Hearing (Comparative New or Major/Minor Modifications)</i> .....	6,760.00
b. <i>Developmental Authority—Same charge as regular authority in service unless otherwise indicated</i>	
c. <i>Formal Complaints and Pole Attachment Complaints Filing Fee</i> .....	120.00
2. <i>Domestic Public Land Mobile Stations (includes Base, Dispatch, Control &amp; Repeater Stations)</i>	
a. <i>New or Additional Facility (per transmitter)</i> .....	230.00
b. <i>Major Modifications (per transmitter)</i> .....	230.00
c. <i>Fill In Transmitters (per transmitter)</i> .....	230.00
d. <i>Major Amendment to a Pending Application (per transmitter)</i> .....	230.00
e. <i>Assignment or Transfer (per call sign)</i> .....	230.00
f. <i>Partial Assignment (per call sign)</i> .....	230.00
g. <i>Renewal (per call sign)</i> .....	35.00
h. <i>Minor Modification (per transmitter)</i> .....	35.00
i. <i>Special Temporary Authority (per frequency/per location)</i> .....	200.00
j. <i>Extension of Time to Construct (per application)</i> .....	35.00
k. <i>Notice of Completion of Construction (per application)</i> ....	35.00
l. <i>Auxiliary Test Station (per transmitter)</i> .....	200.00
m. <i>Subsidiary Communications Service (per request)</i> .....	100.00
n. <i>Reinstatement (per application)</i> .....	35.00
o. <i>Combining Call Signs (per call sign)</i> .....	200.00
p. <i>Standby Transmitter (per transmitter/per location)</i> .....	200.00
q. <i>900 MHz Nationwide Paging</i>	
(i) <i>Renewal</i>	
(1) <i>Network Organizer</i> .....	35.00
(2) <i>Network Operator (per operator/per city)</i> .....	35.00

<i>r. Air-Ground Individual License</i>	
(i) Initial License (per station) .....	35.00
(ii) Renewal of License (per station) .....	35.00
(iii) Modification of License (per station) .....	35.00
3. Cellular Systems (per system)	
a. New or Additional Facilities .....	230.00
b. Major Modification .....	230.00
c. Minor Modification .....	60.00
d. Assignment or Transfer (including partial) .....	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier .....	595.00
(ii) Subsequent License for Wireline Carrier .....	60.00
(iii) License for Nonwireline Carrier .....	60.00
(iv) Fill In License (all carriers) .....	60.00
f. Renewal .....	35.00
g. Extension of Time to Complete Construction .....	35.00
h. Special Temporary Authority (per system) .....	200.00
i. Combining Cellular Geographic Service Areas (per system) .....	50.00
4. Rural Radio (includes Central Office, Interoﬃce, or Relay Facilities)	
a. New or Additional Facility (per transmitter) .....	105.00
b. Major Modification (per transmitter) .....	105.00
c. Major Amendment to Pending Application (per transmitter) .....	105.00
d. Minor Modification (per transmitter) .....	35.00
e. Assignment or Transfer (per call sign) .....	105.00
(i) Partial Assignment (per call sign) .....	105.00
f. Renewal (per call sign) .....	35.00
g. Extension of Time to Complete Construction (per application) .....	35.00
h. Notice of Completion of Construction (per application) .....	35.00
i. Special Temporary Authority (per frequency/per location) .....	200.00
j. Reinstatement (per application) .....	35.00
k. Combining Call Signs (per call sign) .....	200.00
l. Auxiliary Test Station (per transmitter) .....	200.00
m. Standby Transmitter (per transmitter per location) .....	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter) .....	105.00
b. Major Modifications (per transmitter) .....	105.00
c. Fill In Transmitters (per transmitter) .....	105.00
d. Major Amendment to Pending Application (per transmitter) .....	105.00
e. Minor Modification (per transmitter) .....	35.00
f. Assignment or Transfer (per call sign) .....	105.00
(i) Partial Assignment (per call sign) .....	105.00
g. Renewal (per call sign) .....	35.00
h. Extension of Time to Complete Construction (per application) .....	35.00
i. Reinstatement (per application) .....	35.00
j. Notice of Completion of Construction (per application) .....	35.00

k. <i>Special Temporary Authority (per frequency/per location)</i> .....	200.00
l. <i>Combining Call Signs (per call sign)</i> .....	200.00
m. <i>Auxiliary Test Station (per transmitter)</i> .....	200.00
n. <i>Standby Transmitter (per transmitter/per location)</i> .....	200.00
6. <i>Point-to-Point Microwave and Local Television Radio Service</i>	
a. <i>Conditional License (per station)</i> .....	155.00
b. <i>Major Modification of Conditional License or License Authorization (per station)</i> .....	155.00
c. <i>Certification of Completion of Construction (per station)</i> .	155.00
d. <i>Renewal (per licensed station)</i> .....	155.00
e. <i>Assignment or Transfer (per authorized station)</i> .....	55.00
f. <i>Extension of Construction Authorization (per station)</i> .....	55.00
g. <i>Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)</i> .....	70.00
7. <i>Multipoint Distribution Service (including multichannel MDS)</i>	
a. <i>Conditional License (per station)</i> .....	155.00
b. <i>Major Modification of Conditional License or License Authorization (per station)</i> .....	155.00
c. <i>Certification of Completion of Construction (per channel)</i>	455.00
d. <i>Renewal (per licensed station)</i> .....	155.00
e. <i>Assignment or Transfer (per authorized station)</i> .....	55.00
f. <i>Extension of Construction Authorization (per station)</i> .....	110.00
g. <i>Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)</i> .....	70.00
8. <i>Digital Electronic Message Service</i>	
a. <i>Conditional License (per nodal station)</i> .....	155.00
b. <i>Modification of Conditional License or Prior Construction Authorization (per nodal station)</i> .....	155.00
c. <i>Certification of Completion of Construction (per nodal station)</i> .....	155.00
d. <i>Renewal (per licensed nodal station)</i> .....	155.00
e. <i>Assignment or Transfer (per authorized station)</i> .....	55.00
f. <i>Extension of Construction Authorization (per station)</i> .....	55.00
g. <i>Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request)</i> .....	70.00
9. <i>International Fixed Public Radio (Public &amp; Control Stations)</i>	
a. <i>Initial Construction Permit (per station)</i> .....	510.00
b. <i>Assignment or Transfer (per application)</i> .....	510.00
c. <i>Renewal (per license)</i> .....	370.00
d. <i>Modification (per station)</i> .....	370.00
e. <i>Extension of Construction Authorization (per station)</i> .....	185.00
f. <i>Special Temporary Authority or Request for Waiver (per request)</i> .....	185.00
10. <i>Fixed Satellite Transmit/Receive Earth Stations</i>	
a. <i>Initial Application (per station)</i> .....	1,525.00
b. <i>Modification of License (per station)</i> .....	105.00
c. <i>Assignment or Transfer</i>	
(i) <i>First Station on Application</i> .....	300.00
(ii) <i>Each Additional Station</i> .....	100.00
d. <i>Developmental Station (per station)</i> .....	1,000.00
e. <i>Renewal of License (per station)</i> .....	105.00

f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request).....	105.00
g. Amendment of Application (per station).....	105.00
h. Extension of Construction Permit (per station).....	105.00
11. Small Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band)	
a. Lead Application .....	3,380.00
b. Routine Application (per station).....	35.00
c. Modification of License (per station).....	105.00
d. Assignment or Transfer	
(i) First Station on Application.....	300.00
(ii) Each Additional Station.....	35.00
e. Developmental Station (per station) .....	1,000.00
f. Renewal of License (per station).....	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).....	105.00
h. Amendment of Application (per station).....	105.00
i. Extension of Construction Permit (per station) .....	105.00
12. Receive Only Earth Stations	
a. Initial Application for Registration.....	230.00
b. Modification of License or Registration (per station).....	105.00
c. Assignment or Transfer	
(i) First Station on Application.....	300.00
(ii) Each Additional Station.....	100.00
d. Renewal of License (per station).....	105.00
e. Amendment of Application (per station).....	105.00
f. Extension of Construction Permit (per station).....	105.00
g. Waivers (per request) .....	105.00
13. Very Small Aperture Terminal (VSAT) Systems	
a. Initial Application (per system).....	5,630.00
b. Modification of License (per system).....	105.00
c. Assignment or Transfer of System.....	1,505.00
d. Developmental Station.....	1,000.00
e. Renewal of License (per system) .....	105.00
f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).....	105.00
g. Amendment of Application (per system).....	105.00
h. Extension of Construction Permit (per system).....	105.00
14. Mobile Satellite Earth Stations	
a. Initial Application of Blanket Authorization.....	5,630.00
b. Initial Application for Individual Earth Station .....	1,350.00
c. Modification of License (per station).....	105.00
d. Assignment or Transfer (per system) .....	1,505.00
e. Developmental Station.....	1,000.00
f. Renewal of License (per system).....	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).....	105.00
h. Amendment of Application (per system).....	105.00
i. Extension of Construction Permit (per system) .....	105.00
15. Radiodetermination Satellite Earth Stations	
a. Initial Application of Blanket Authorization.....	5,630.00
b. Initial Application for Individual Earth Station .....	1,350.00
c. Modification of License (per station).....	105.00
d. Assignment or Transfer (per system) .....	1,505.00
e. Developmental Station.....	1,000.00

f. Renewal of License (per system).....	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request) .....	105.00
h. Amendment of Application (per system).....	105.00
i. Extension of Construction Permit (per system) .....	105.00
16. Space Stations	
a. Application for Authority to Construct.....	2,030.00
b. Application for Authority to Launch and Operate	
(i) Initial Application.....	70,000.00
(ii) Replacement Satellite.....	70,000.00
c. Assignment or Transfer (per satellite).....	5,000.00
d. Modification.....	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request) .....	500.00
f. Amendment of Application.....	1,000.00
g. Extension of Construction Permit/Launch Authorization (per request).....	500.00
17. Section 214 Applications	
a. Overseas Cable Construction .....	9,125.00
b. Cable Landing License	
(i) Common Carrier.....	1,025.00
(ii) NonCommon Carrier .....	10,150.00
c. Domestic Cable Construction.....	610.00
d. All Other 214 Applications .....	610.00
e. Special Temporary Authority (all services).....	610.00
f. Assignments or Transfers (all services) .....	610.00
18. Recognized Private Operating Status (per application).....	610.00
19. Telephone Equipment Registration.....	155.00
20. Tariff Filings	
a. Filing Fee.....	490.00
b. Special Permission Filing (per filing).....	490.00
21. Accounting and Audits	
a. Field Audit .....	62,290.00
b. Review of Attest Audit.....	34,000.00
c. Review of Depreciation Update Study (Single State) .....	20,685.00
(i) Each Additional State.....	680.00
d. Interpretation of Accounting Rules (per request) .....	2,885.00
e. Petition for Waiver (per petition).....	4,660.00

#### MISCELLANEOUS CHARGES

1. International Telecommunications Settlements	
Administrative Fee for Collections (per line item).....	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination.....	35.00
b. Renewal of Commercial Radio Operator License, Permit, or Certificate.....	35.00
c. Duplicate Commercial Radio Operator License, Permit, or Certificate.....	35.00
3. Importation of Radio Frequency Devices FCC Form 740 (per filing)	35.00
4. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection).....	620.00

b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection).....	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per inspection).....	360.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection).....	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel.....	60.00".

1           (2) *CONFORMING AMENDMENTS.*—Section 8 of  
2       *the Communications Act of 1934 (47 U.S.C. 158) is*  
3       *further amended—*

4           (A) *by striking the last sentence of subsec-*  
5       *tion (a); and*

6           (B) *in subsection (b)(1), by striking*  
7       *“April 1, 1987” and inserting in lieu thereof*  
8       *“October 1, 1991”.*

9       (b) *REVISION OF FINES AND PENALTIES.*—

10       (1) *DISCRIMINATION AND PREFERENCE BY*  
11       *COMMON CARRIER.*—Section 202 of the *Communica-*  
12       *tions Act of 1934 (47 U.S.C. 202) is amended—*

13           (A) *by striking “\$500” and inserting in lieu*  
14       *thereof “\$6,000”; and*

15           (B) *by striking “\$25” and inserting in lieu*  
16       *thereof “\$300”.*

17       (2) *FAILURE IN FILING OF SCHEDULE OF*  
18       *CHARGES.*—Section 203(e) of *such Act (47 U.S.C.*  
19       *203(e)) is amended—*

20           (A) *by striking “\$500” and inserting in lieu*  
21       *thereof “\$6,000”; and*

1           (B) by striking “\$25” and inserting in lieu  
2           thereof “\$300”.

3           (3) *NONCOMPLIANCE WITH RATE ORDERS.*—  
4           Section 205(b) of such Act (47 U.S.C. 205(b)) is  
5           amended by striking “\$1,000” and inserting in lieu  
6           thereof “\$12,000”.

7           (4) *NONCOMPLIANCE WITH LINE EXTENSION*  
8           *ORDERS.*—Section 214(d) of such Act (47 U.S.C.  
9           214(d)) is amended by striking “\$100” and inserting  
10          in lieu thereof “\$1,200”.

11          (5) *FAILURE TO FILE REPORTS OR INFORMA-*  
12          *TION.*—Section 219(b) of such Act (47 U.S.C. 219(b))  
13          is amended by striking “\$100” and inserting in lieu  
14          thereof “\$1,200”.

15          (6) *RECORDKEEPING FAILURES.*—Section  
16          220(d) of such Act (47 U.S.C. 220(d)) is amended by  
17          striking “\$500” and inserting in lieu thereof  
18          “\$6,000”.

19          (7) *NONCOMPLIANCE WITH SHIPBOARD RADIO*  
20          *REQUIREMENTS.*—Section 364 of such Act (47  
21          U.S.C. 364) is amended—

22                (A) by striking “\$500” in subsection (a) and  
23                inserting in lieu thereof “\$5,000”; and

24                (B) by striking “\$100” in subsection (b)  
25                and inserting in lieu thereof “\$1,000”.

1           (8) *NONCOMPLIANCE WITH PASSENGER VESSEL*  
2           *RADIO REQUIREMENTS.*—Section 386 of such Act (47  
3           U.S.C. 386) is amended—

4                     (A) by striking “\$500” in subsection (a) and  
5                     inserting in lieu thereof “\$5,000”; and

6                     (B) by striking “\$100” in subsection (b)  
7                     and inserting in lieu thereof “\$1,000”.

8           (9) *GENERAL FORFEITURES.*—Section 503(b) of  
9           such Act (47 U.S.C. 503(b)) is amended—

10                    (A) by inserting “(1)” immediately after  
11                    “(b)”; and

12                    (B) by striking paragraph (2) and inserting  
13                    in lieu thereof the following:

14                    “(2)(A) If the violator is (i) a broadcast station  
15                    licensee or permittee, (ii) a cable television operator, or  
16                    (iii) an applicant for any broadcast or cable television  
17                    operator license, permit, certificate, or other instrument  
18                    or authorization issued by the Commission, the amount  
19                    of any forfeiture penalty determined under this section  
20                    shall not exceed \$25,000 for each violation or each day  
21                    of a continuing violation, except that the amount as-  
22                    sessed for any continuing violation shall not exceed a  
23                    total of \$250,000 for any single act or failure to act  
24                    described in paragraph (1) of this subsection.



1           “(B) If the violator is a common carrier subject to  
2     the provisions of this Act or an applicant for any  
3     common carrier license, permit, certificate, or other in-  
4     strument of authorization issued by the Commission,  
5     the amount of any forfeiture penalty determined under  
6     this subsection shall not exceed \$100,000 for each  
7     violation or each day of a continuing violation, except  
8     that the amount assessed for any continuing violation  
9     shall not exceed a total of \$1,000,000 for any single  
10    act or failure to act described in paragraph (1) of this  
11    subsection.

12           “(C) In any case not covered in subparagraph  
13    (A) or (B), the amount of any forfeiture penalty deter-  
14    mined under this subsection shall not exceed \$10,000  
15    for each violation or each day of a continuing viola-  
16    tion, except that the amount assessed for any continu-  
17    ing violation shall not exceed a total of \$75,000 for  
18    any single act or failure to act described in paragraph  
19    (1) of this subsection.

20           “(D) The amount of such forfeiture penalty shall  
21    be assessed by the Commission, or its designee, by  
22    written notice. In determining the amount of such a  
23    forfeiture penalty, the Commission or its designee shall  
24    take into account the nature, circumstances, extent,  
25    and gravity of the violation and, with respect to the vi-

1       olator, the degree of culpability, any history of prior of-  
 2       fenses, ability to pay, and such other matters as justice  
 3       may require.”.

4       (c) *EFFECTIVE DATE; IMPLEMENTATION.*—The  
 5       amendments made by this section shall take effect on the date  
 6       of enactment of this section, and the Schedule of Charges  
 7       required by the amendment made by subsection (a) of this  
 8       subsection shall be implemented not later than 150 days after  
 9       such date of enactment.

10   **SEC. 302. INTERNATIONAL DEPARTURE FEES.**

11       (a) *ESTABLISHMENT OF COMMERCIAL AVIATION*  
 12       *FEE.*—

13               (1) *IN GENERAL.*—The Secretary of Transporta-  
 14       tion shall establish, assess, and collect a fee, which  
 15       shall be imposed as of October 1, 1989, for each pas-  
 16       senger on commercial aircraft departing the United  
 17       States on international flights during fiscal year 1990.

18               (2) *AMOUNT OF FEE.*—The amount of a fee  
 19       under this section is \$3 per passenger on each flight  
 20       with respect to which the fee is assessed.

21               (3) *DEPOSIT OF FEES.*—Amounts received by the  
 22       United States Government under this subsection shall  
 23       be deposited in the general fund of the Treasury as off-  
 24       setting receipts of the Department of Transportation  
 25       and ascribed to the activities of the Department of

1     *Transportation (including the Federal Aviation Ad-*  
 2     *ministration) involving the monitoring and regulation*  
 3     *of international air transportation operations, includ-*  
 4     *ing air traffic control operations, aviation security and*  
 5     *safety inspections, and activities associated with par-*  
 6     *ticipation in the International Civil Aviation Organi-*  
 7     *zation.*

8             (4) *REGULATIONS.*—*The Secretary of Transpor-*  
 9     *tation shall prescribe regulations implementing this*  
 10    *subsection not later than 60 days after the date of en-*  
 11    *actment of this subsection.*

12    (b) *ESTABLISHMENT OF PASSENGER VESSEL FEE.*—

13             (1) *IN GENERAL.*—*Chapter 35 of title 46, United*  
 14    *States Code, is amended by adding at the end the fol-*  
 15    *lowing new section:*

16    “§ 3507. *Passenger vessel fee*

17             “(a) *The Secretary shall establish, assess, and collect a*  
 18    *fee, which shall be imposed as of October 1, 1989, for each*  
 19    *covered voyage during fiscal year 1990 of—*

20             “(1) *a passenger vessel having berth or stateroom*  
 21    *accommodations for more than 16 passengers that is on*  
 22    *a voyage that extends over 1 or more nights, except a*  
 23    *vessel that is—*

24             “(A) *on a voyage of less than 12 hours be-*  
 25    *tween 2 points in the United States; or*

1                   “(B) owned and operated by a State or a po-  
2                   litical subdivision of a State; or

3                   “(2) a vessel transporting passengers engaged in  
4                   gambling aboard the vessel beyond the territorial sea of  
5                   the United States.

6                   “(b)(1) Subject to paragraph (2) of this subsection, the  
7                   amount of a fee under this section is \$3 for each passenger on  
8                   a vessel for a covered voyage with respect to which the fee is  
9                   assessed. Such fee shall be assessed only once for each pas-  
10                  senger on a covered voyage, either when such passenger first  
11                  embarks in the United States or when the passenger first  
12                  disembarks in the United States.

13                  “(2) The Secretary shall reduce a fee under this section  
14                  for a covered voyage of a vessel in an amount equal to—

15                         “(A) the amount for which the person from whom  
16                         the fee is collected is liable with respect to that voyage  
17                         under section 4461 of the Internal Revenue Code of  
18                         1986 (26 U.S.C. 4461), relating to harbor mainte-  
19                         nance tax; plus

20                         “(B) an amount, to be determined by the Secre-  
21                         tary, representing fees for which that person is liable  
22                         for inspections of the vessel performed by the Coast  
23                         Guard.

1       “(c) *A fee under this section may be collected from an*  
 2 *owner, operator, or person in charge of a vessel for a covered*  
 3 *voyage with respect to which the fee is assessed.*

4       “(d) *Of amounts received by the United States Govern-*  
 5 *ment under this section—*

6               “(1) *two-thirds shall be deposited as offsetting re-*  
 7 *ceipts into the Harbor Maintenance Trust Fund estab-*  
 8 *lished by section 9505 of the Internal Revenue Code of*  
 9 *1986 (26 U.S.C. 9505); and*

10              “(2) *one-third shall be deposited into the general*  
 11 *fund of the Treasury as offsetting receipts of the de-*  
 12 *partment in which the Coast Guard is operating and*  
 13 *ascribed to Coast Guard activities.*

14       “(e) *In this section, ‘covered voyage’ means a voyage of*  
 15 *a passenger vessel during which passengers of the vessel*  
 16 *embark or disembark the vessel in the United States.”.*

17              (2) *REGULATIONS.—The Secretary of the depart-*  
 18 *ment in which the Coast Guard is operating shall pre-*  
 19 *scribe regulations implementing section 3507 of title*  
 20 *46, United States Code, as added by this subsection,*  
 21 *not later than 60 days after the date of enactment of*  
 22 *this subsection.*

23              (3) *CLERICAL AMENDMENT.—The table of sec-*  
 24 *tions at the beginning of chapter 35 of title 46, United*

1       *States Code, is amended by adding at the end the*  
 2       *following:*

*"3507. Passenger vessel fee."*

3               (4)       *CONFORMING        AMENDMENT.—Section*  
 4       *9505(a) of the Internal Revenue Code of 1986 (26*  
 5       *U.S.C. 9505(a)), relating to the Harbor Maintenance*  
 6       *Trust Fund, is amended—*

7               (A) in paragraph (2) by striking “, or” and  
 8       inserting in lieu thereof a comma;

9               (B) in paragraph (3) by striking the period  
 10       at the end and inserting in lieu thereof “, or”;  
 11       and

12              (C) by adding at the end the following new  
 13       paragraph:

14              “(4) deposited into the Harbor Maintenance Trust  
 15       Fund under section 3507(d)(1) of title 46, United  
 16       States Code (relating to passenger vessel fee).”.

17   **SEC. 303. COAST GUARD USER FEES.**

18       (a) *IN GENERAL.*—Notwithstanding the provisions of  
 19       section 2110 of title 46, United States Code, the Secretary of  
 20       the department in which the Coast Guard is operating (here-  
 21       inafter in this section referred to as the “Secretary”) shall  
 22       establish and implement a system for the collection, com-  
 23       mencing October 1, 1989, of \$50,000,000 in fiscal year  
 24       1990 in receipts from payments by users of services provided  
 25       by the Coast Guard, other than services associated with

1 *emergency search and rescue. Amounts received by the*  
2 *United States Government under this section shall be depos-*  
3 *ited into the general fund of the Treasury as offsetting re-*  
4 *ceipts of the department in which the Coast Guard is operat-*  
5 *ing and ascribed to Coast Guard activities.*

6       (b) *REGULATIONS.*—*The Secretary shall, by Octo-*  
7 *ber 1, 1989, issue regulations to carry out the provisions of*  
8 *subsection (a) of this section. Such regulations shall include*  
9 *a schedule of fees which shall be established in accordance*  
10 *with the provisions of section 9701 of title 31, United States*  
11 *Code.*

12       (c) *APPLICABILITY.*—

13               (1) *PAYMENTS FROM STAMPS AND FEES.*—*The*  
14 *system established and implemented under subsection*  
15 *(a) of this section shall include collections of payments*  
16 *from—*

17                       (A) *the sale of Support of Services Stamps,*  
18 *possession of which will entitle the holder of such*  
19 *Stamps to specified services without charge; and*

20                       (B) *fees to be charged to users of such speci-*  
21 *fied services who have not purchased such a Sup-*  
22 *port of Services Stamp.*

23               (2) *CONSIDERATION OF PAYMENTS FOR CER-*  
24 *TAIN COAST GUARD SERVICES.*—*In developing such*  
25 *system and issuing regulations under this section, the*

1        *Secretary shall consider collection of receipts from pay-*  
2        *ments for non-emergency search and rescue, as well as*  
3        *other services provided by the Coast Guard.*

4        *(d) MINIMIZATION OF ADVERSE EFFECTS ON MARI-*  
5        *TIME INDUSTRY.—The Secretary shall, to the maximum*  
6        *extent practicable, ensure that such system minimizes ad-*  
7        *verse economic effects upon commercial towing services and*  
8        *other segments of the maritime industry.*

9        *(e) REPORT.—The Secretary shall report to the Con-*  
10       *gress on or before September 1, 1989, regarding activities*  
11       *undertaken to establish and implement such system and on or*  
12       *before September 1, 1990, regarding the implementation and*  
13       *effects of such system.*

14       *(f) DISCLAIMER.—Nothing in this section shall alter or*  
15       *expand the duties and liability of the United States under*  
16       *existing law for the performance of functions for which fees*  
17       *or payments are collected. The collection of such fees or pay-*  
18       *ments shall not constitute an express or implied undertaking*  
19       *by the United States to perform any service or activity in a*  
20       *certain manner or to provide any service at a particular time*  
21       *or place.*

22       **SEC. 304. AIRPORT SLOT FEES.**

23       *(a). IN GENERAL.—The Secretary of Transportation*  
24       *shall, within 180 days after the date of enactment of this*  
25       *section, establish a schedule of fees to be collected—*



(1) for each slot issued by the Federal Aviation Administration on behalf of the Federal Government and held by an air carrier, other than a commuter operator, at high density traffic airports; and

(2) to the extent consistent with international law and treaty obligations of the United States, for each such slot held by a foreign air carrier at such airports.

Such fees shall reasonably reflect the value of each such slot to its holder. The total amount of fees collected under this schedule shall be at least \$239,000,000 for fiscal year 1990.

(b) *DEPOSIT OF FEES.*—The fees collected under these provisions shall be deposited in the general fund of the Treasury as offsetting receipts of the Federal Aviation Administration.

(c) *REGULATIONS.*—The Secretary shall prescribe appropriate regulations to carry out the provisions of this section.

(d) *DEFINITION.*—As used in this section—

(1) the terms “air carrier” and “foreign air carrier” have the meanings given such terms, respectively, in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301); and

(2) the term “high density traffic airports” means airports so designated in subpart K of part 93 of title

1       14, Code of Federal Regulations, as in effect on the  
2       date of enactment of this section.

3       **TITLE IV—ENVIRONMENT AND**  
4       **PUBLIC WORKS**

5       **Subtitle A—Atmospheric Pollution Fees**

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6       SHORT TITLE

7       SEC. 4001. This subtitle may be cited as the “Strato-  
8       spheric Ozone and Climate Protection Act of 1989”.

9       FINDINGS

10       SEC. 4002. The Congress finds that—

11               (1) the best available scientific evidence shows  
12       that manufactured substances, including chlorofluoro-  
13       carbons and other substances covered by this subtitle,  
14       are destroying stratospheric ozone, and significantly  
15       contributing to global climate change by enhancing  
16       the greenhouse effect and causing other atmospheric  
17       modifications;

1           (2) *no level of stratospheric ozone depletion or*  
2           *global climate change caused by human activities can*  
3           *be deemed safe;*

4           (3) *stratospheric ozone depletion will lead to in-*  
5           *creased incidence of solar ultraviolet radiation in the*  
6           *troposphere and at the surface of the Earth;*

7           (4) *increased incidence of solar ultraviolet radi-*  
8           *ation will cause increased rates of disease in humans*  
9           *(including increased rates of skin cancer, cataracts,*  
10          *and, potentially, suppression of the immune system),*  
11          *threaten food crops and marine resources, and other-*  
12          *wise damage the natural environment;*

13          (5) *the Ozone Trends Report completed in March*  
14          *1988 through the effort of over one hundred interna-*  
15          *tional scientists found undisputed observational evi-*  
16          *dence that the atmospheric concentrations of source*  
17          *gases important in controlling stratospheric ozone levels*  
18          *and aggravating the problem of uncontrolled global cli-*  
19          *mate change (chlorofluorocarbons, halons, methane, ni-*  
20          *trous oxide, and carbon dioxide) are increasing on a*  
21          *global scale as a result of human activities;*

22          (6) *scientific expeditions and analyses have estab-*  
23          *lished that chlorine compounds derived from emissions*  
24          *of chlorofluorocarbons are responsible for destruction of*

1       *the stratospheric ozone layer over the Antarctic and the*  
2       *surrounding oceans;*

3               *(7) recent scientific reports indicate that a similar*  
4       *destruction of the ozone layer may occur over the*  
5       *Arctic region and that the same chlorine compounds*  
6       *found in the Antarctic region are present in areas of*  
7       *the Arctic ozone layer;*

8               *(8) experimental laboratory studies and measure-*  
9       *ments of ozone depletion suggest that the chemical reac-*  
10       *tions responsible for destruction of ozone over Antarcti-*  
11       *ca could operate in the aerosol layer of the stratosphere*  
12       *and would not be limited to the polar regions;*

13               *(9) the Montreal Protocol on Substances that De-*  
14       *plete the Ozone Layer (the Montreal Protocol) provides*  
15       *a framework for all nations of the world to protect the*  
16       *Earth's ozone shield;*

17               *(10) the control measures that are set forth in the*  
18       *Montreal Protocol (a freeze on the consumption of cer-*  
19       *tain chlorofluorocarbons at 1986 levels in 1989 fol-*  
20       *lowed by a 20 per centum reduction in 1993 and an*  
21       *additional 30 per centum reduction in 1998, coupled*  
22       *with a freeze on the consumption of certain halons at*  
23       *1986 levels in 1992) will allow atmospheric concentra-*  
24       *tions of chlorine to increase by more than a factor of*  
25       *two;*

1           (11) restrictions on the production and use of  
2 chlorofluorocarbons and halons, as required under the  
3 Montreal Protocol and by Environmental Protection  
4 Agency regulations, will reduce the supply and in-  
5 crease the price of these chemicals, and that increased  
6 prices will provide unwarranted, excess rates of return  
7 to producers, importers and distributors of these chemi-  
8 cals which may, absent payment to the Government as  
9 fees in exchange for limited production, importation  
10 and distribution rights, provide a disincentive for the  
11 introduction of substitute chemicals to replace chloro-  
12 fluorocarbons and other substances covered by this sub-  
13 title;

14           (12) in exchange for the limited rights to produce  
15 or import chlorofluorocarbons and other ozone depleting  
16 substances, the Government should charge fees ap-  
17 proximating the market value of such limited rights  
18 and use such fees to offset Government expenses asso-  
19 ciated with implementation of regulatory restrictions, to  
20 supplement other regulations and controls applicable to  
21 such substances, and for the benefit of the public;

22           (13) because of the worldwide recognition of the  
23 need to reduce significantly the use of ozone-depleting  
24 chemicals, United States chemical producers and chloro-  
25 ofluorocarbon and halon user industries should be en-

1       *couraged to develop improved chemicals, products, and*  
2       *technologies that do not rely on chlorofluorocarbons and*  
3       *halons;*

4               *(14) the Ozone Trends Report and other recent*  
5       *scientific studies have raised serious questions about*  
6       *the adequacy of the control measures that are set forth*  
7       *in the Montreal Protocol;*

8               *(15) ozone depleting chlorofluorocarbons are also*  
9       *powerful greenhouse gases projected to be responsible*  
10       *for 15 to 25 per centum of global warming and, under*  
11       *the existing Montreal Protocol, 10 per centum of future*  
12       *warming;*

13               *(16) stratospheric ozone depletion and global cli-*  
14       *mate change from continued emissions of chlorofluoro-*  
15       *carbons and other halogenated chlorocarbons with ozone*  
16       *depleting potential, and emissions of other gases, such*  
17       *as methane and carbon dioxide, imperil human health*  
18       *and the environment worldwide;*

19               *(17) in order to stabilize and eventually reduce*  
20       *concentrations of chlorine and bromine in the strato-*  
21       *sphere, to conserve the stratospheric ozone layer (an ex-*  
22       *haustible natural resource), and to reduce the extent of*  
23       *global climate change—*

24                       *(A) emissions of chlorofluorocarbons and*  
25               *other substances covered by this subtitle, including*

1           *halogenated carbons with ozone depleting poten-*  
2           *tial, should be terminated rapidly;*

3           *(B) it is necessary to control international*  
4           *trade in substances covered by this subtitle and*  
5           *products containing such substances; and*

6           *(C) emissions of other gases, such as meth-*  
7           *ane and carbon dioxide, should be controlled;*

8           *(18) the highest priority must be given to develop-*  
9           *ing and deploying safe and energy efficient products*  
10          *and technologies as substitutes for ozone depleting sub-*  
11          *stances as rapidly as possible; and*

12          *(19) the United States needs to develop and*  
13          *deploy safe, energy efficient substitutes to replace ozone*  
14          *depleting substances in order to demonstrate to the*  
15          *world its commitment to protect the stratosphere and to*  
16          *limit global climate change.*

17                   *OBJECTIVES AND NATIONAL GOAL*

18          *SEC. 4003. (a) The objectives of this subtitle are to re-*  
19          *store and maintain the chemical and physical integrity of the*  
20          *Earth's atmosphere, to protect human health and the global*  
21          *environment from all known and potential dangers due to*  
22          *atmospheric or climatic modification, including stratospheric*  
23          *ozone depletion, to provide for a smooth transition from the*  
24          *use of ozone-depleting chemicals to the use of safe chemicals,*  
25          *products, and technologies that do not threaten the ozone*  
26          *layer, and to reduce the generation of greenhouse gases in*

1 *order to protect the Earth's ozone layer and to limit anthropo-*  
2 *genically induced global climate changes by—*

3           (1) *reducing significantly the production and*  
4           *emission into the atmosphere of pollutants caused by*  
5           *human activities,*

6           (2) *promoting the rapid development and deploy-*  
7           *ment of energy efficient alternatives to the use of chlor-*  
8           *ofluorocarbons and other substances covered by this*  
9           *subtitle,*

10          (3) *assuring that such alternatives reduce ozone*  
11          *depleting potential to the maximum extent possible*  
12          *and, at the same time, do not exacerbate the problem of*  
13          *human induced global climate change either directly as*  
14          *radiatively important trace gases or indirectly as sub-*  
15          *stances that reduce the energy efficiency of products*  
16          *which incorporate or use such substances, and*

17          (4) *promoting additional scientific research on at-*  
18          *mospheric or climatic modification, including strato-*  
19          *spheric ozone depletion, and on the known and poten-*  
20          *tial adverse effects therefrom on human health and the*  
21          *global environment.*

22          (b) *In order to achieve the objectives of this subtitle, it is*  
23          *the national goal to eliminate atmospheric emissions of man-*  
24          *ufactured substances with ozone depleting potential as well as*  
25          *direct and indirect global warming potential, including chlor-*



1 *ofluorocarbons and other halogenated carbons with ozone de-*  
2 *pleting and global warming potential, to reduce to the maxi-*  
3 *mum extent possible emissions of other gases caused by*  
4 *human activities that are likely to affect adversely the global*  
5 *climate, and to provide for an orderly and equitable shift to*  
6 *alternative, safe chemicals, products, and technologies.*

7 *DEFINITIONS*

8 *SEC. 4004. As used in this subtitle, the term—*

9 *(1) “Administrator” means the Administrator of*  
10 *the Environmental Protection Agency;*

11 *(2) “distributor” means any person who pur-*  
12 *chases directly from a producer or importer and mar-*  
13 *kets or sells, at wholesale or retail, ozone depleting*  
14 *chemicals subject to production, importation and distri-*  
15 *bution fees under this subtitle;*

16 *(3) “household appliances” means noncommercial*  
17 *personal effects, including air-conditioners, refrigera-*  
18 *tors, and motor vehicles;*

19 *(4) “import” means to land on, bring into, or in-*  
20 *troduce into, or attempt to land on, bring into, or intro-*  
21 *duce into, any place subject to the jurisdiction of the*  
22 *United States, whether or not such landing, bringing,*  
23 *or introduction constitutes an importation within the*  
24 *meaning of the customs laws of the United States;*

25 *(5) “manufactured substances” means any organ-*  
26 *ic or inorganic chemical substances of a particular mo-*

1        *lecular identity, or any mixture, that has been manu-*  
2        *factured for commercial purposes;*

3            (6) “medical purposes” means medical devices  
4        *and diagnostic products (including drugs, as defined in*  
5        *the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
6        *321) and drug delivery systems) (A) for which no safe*  
7        *substitute has been developed and (B) which, after*  
8        *notice and opportunity for public comment, has been*  
9        *approved and determined to be essential by the Com-*  
10       *missioner of the Food and Drug Administration, in*  
11       *consultation with the Administrator;*

12           (7) “ozone-depleting chemicals” refers to those  
13       *chemicals listed under section 4011 of this subtitle;*

14           (8) “person” means an individual, corporation  
15       *(including a government corporation), partnership,*  
16       *firm, joint stock company, trust, association, or any*  
17       *other entity, or any officer, employee, agent, depart-*  
18       *ment, or instrumentality of the Federal Government, of*  
19       *any State or political subdivision thereof (including*  
20       *any interstate body), or of any foreign government (in-*  
21       *cluding any international instrumentality);*

22           (9) “producer” means the manufacturer of ozone-  
23       *depleting chemicals subject to production, importation*  
24       *and distribution fees under this subtitle;*

1           (10) "Secretary" means the Secretary of the  
2       Treasury; and

3           (11) "substances covered by this subtitle" means  
4       those substances which are known or may reasonably  
5       be anticipated to cause or contribute to atmospheric or  
6       climatic modification, including stratospheric ozone de-  
7       pletion, and are listed under subsections (a) or (b) of  
8       section 4005 of this subtitle.

9       OFFSET OF GOVERNMENT EXPENSES ASSOCIATED WITH  
10      IMPLEMENTATION OF REGULATORY CONTROLS AND  
11      IMPOSITION OF PRODUCTION, IMPORTATION AND  
12      DISTRIBUTION FEES ON OZONE-DEPLETING CHEMI-  
13      CALS

14                               IMPOSITION OF FEES

15      SEC. 4011. (a)(1) Within sixty days following the date  
16   of the enactment of this subtitle, the Administrator shall issue  
17   such regulations as may be necessary to impose production,  
18   importation and distribution fees, commencing with the effec-  
19   tive date provided by the following table, on producers, im-  
20   porters and distributors of the following chemicals:

<i>Ozone-Depleting Chemical</i>	<i>Effective Date</i>
<i>Trichlorofluoromethane (CFC-11).....</i>	<i>July 1, 1989</i>
<i>Dichlorodifluoromethane (CFC-12).....</i>	<i>July 1, 1989</i>
<i>Trichlorotrifluoroethane (CFC-113).....</i>	<i>July 1, 1989</i>
<i>Dichlorotetrafluoroethane (CFC-114).....</i>	<i>July 1, 1989</i>
<i>(Mono) chloropentafluoroethane (CFC-115).....</i>	<i>July 1, 1989</i>
<i>Bromochlorodifluoroethane (Halon 1211).....</i>	<i>January 1, 1992</i>
<i>Bromotrifluoroethane (Halon 1301).....</i>	<i>January 1, 1992</i>
<i>Dibromotetrafluoroethane (Halon 2402).....</i>	<i>January 1, 1992.</i>

1        *Ozone-depleting chemicals that have been recovered and*  
2 *recycled shall not be subject to the production, importation*  
3 *and distribution fees established under this subtitle.*

4        (2) *Such regulations shall include and establish the*  
5 *1987 average sales price charged by producers, importers and*  
6 *distributors for each ozone-depleting chemical subject to a*  
7 *production, importation and distribution fee under this sub-*  
8 *title. To reflect changes in production, importation and distri-*  
9 *bution costs, the Administrator shall publish, on April 1,*  
10 *1991 and on April 1 of each calendar year thereafter, an*  
11 *annual adjustment to such 1987 average sales prices. The*  
12 *adjustment shall reflect an amount indicated by (A) the pro-*  
13 *ducer price index for basic inorganic chemicals (published by*  
14 *the Department of Labor) for the period covered by the pre-*  
15 *ceding calendar year and (B) other appropriate measure-*  
16 *ments established in regulations promulgated by the Admin-*  
17 *istrator.*

18        (b)(1) *BASE FEE.—Each person producing or import-*  
19 *ing an ozone depleting chemical subject to a production, im-*  
20 *portation and distribution fee under this subtitle shall be re-*  
21 *quired to pay, on a quarterly basis, for the right to produce or*  
22 *import such chemical. Such fee shall be an amount equal to*  
23 *sixty cents per pound of such chemical produced or imported*  
24 *by such person during the preceding three months.*

1       (2) *ALTERNATIVE FEE.*—*The production, importation*  
2 *and distribution fees established and due under this subtitle*  
3 *shall be the greater of (A) an amount equal to the base fee*  
4 *established under paragraph (1) of this subsection; or (B) an*  
5 *amount equal to each producer's, importer's and distributor's*  
6 *share of the total revenues collected by all such producers,*  
7 *importers and distributors and attributable to sales of each*  
8 *ozone-depleting chemical subject to a production, importation*  
9 *and distribution fee less (i) an allowance equal to the reve-*  
10 *nues that such sales would have generated at the 1987 aver-*  
11 *age sales price for each such chemical, as determined and*  
12 *adjusted by the Administrator in accordance with the preced-*  
13 *ing subsection, and (ii) an amount equal to Federal and*  
14 *State income taxes due and payable on such revenues by*  
15 *such producer, importer or distributor. For purposes of com-*  
16 *puting the fee due and payable by a distributor under sub-*  
17 *paragraph (B) of this paragraph, the amount equal to such*  
18 *distributor's share of total revenues collected shall, in addi-*  
19 *tion to the adjustments referred to in clauses (i) and (ii), be*  
20 *offset by an amount equal to sixty cents per pound of each*  
21 *ozone depleting chemical subject to a production, importation*  
22 *and distribution fee and sold by such distributor.*

23       (3) *Within sixty days following the date of enactment of*  
24 *this subtitle, the Administrator, in consultation with the Sec-*  
25 *retary, shall issue such regulations as may be necessary to*

1 collect the production, importation and distribution fees es-  
2 tablished by this subtitle, including requirements for pay-  
3 ment, on a quarterly basis, of such fees by producers, import-  
4 ers and distributors of ozone-depleting chemicals subject to  
5 such production, importation and distribution fees. The im-  
6 portation fees established by this subtitle shall be due and  
7 payable by the importer of record as listed on United States  
8 Custom Form 7501.

9       (c) The Administrator may promulgate regulations  
10 adding to the list of ozone-depleting chemicals subject to the  
11 production, importation and distribution fees referred to in  
12 subsection (a), any chemical that is known or can reasonably  
13 be anticipated to cause or contribute to stratospheric ozone  
14 depletion and is subject to regulatory controls that limit, on a  
15 chemical specific basis, production and importation. The Ad-  
16 ministrator shall also promulgate regulations to accelerate the  
17 effective dates in subsection (a) if such changes are necessary  
18 to protect public health and the environment and are in fur-  
19 therance of the goal and objectives of this subtitle as set forth  
20 in section 4003.

21       (d) In promulgating regulations under this section, the  
22 Administrator shall take such action as may be necessary,  
23 consistent with the purposes of this section, to assure that no  
24 production, importation and distribution fee shall be imposed  
25 under this subtitle on any ozone-depleting chemical that is

1 *used and entirely consumed in the production of other ozone*  
2 *depleting chemicals that are subject to production, importa-*  
3 *tion and distribution fees under this subtitle.*

4       (e) *Any person exporting an ozone-depleting chemical*  
5 *subject to a production, importation and distribution fee es-*  
6 *tablished by this subtitle may apply to the Administrator for*  
7 *a refund of fees paid by such person and attributable to the*  
8 *quantity of such ozone-depleting chemical that such person*  
9 *exported during the assessment period to a developing coun-*  
10 *try that is a party to the Montreal Protocol on Substances*  
11 *that Deplete the Ozone Layer and is subject to Article 5 of*  
12 *such Protocol. Applications for refunds must be submitted to*  
13 *the Administrator for approval within thirty days after the*  
14 *end of the applicable assessment period. The Administrator*  
15 *shall review the request for a refund and notify both the re-*  
16 *quester and the Secretary within sixty days of the approval*  
17 *or denial of such requests. Requests for refunds approved by*  
18 *the Administrator shall be paid by the Secretary.*

19 *OFFSETTING GOVERNMENT EXPENSES ASSOCIATED WITH*  
20 *IMPLEMENTATION OF REGULATORY CONTROLS AND*  
21 *SUPPORT FOR ACTIVITIES RELATED TO ALTERNA-*  
22 *TIVES TO OZONE-DEPLETING CHEMICALS*

23 *SEC. 4012. All moneys received pursuant to this sub-*  
24 *title for any assessment year shall be deposited as offsetting*  
25 *receipts in the Ozone Layer and Climate Protection Trust*  
26 *Fund established by section 4013 of this subtitle.*

## TRUST FUND

1

2       *SEC. 4013. (a) There is established in the Treasury of*  
3 *the United States a trust fund to be known as the "Ozone*  
4 *Layer and Climate Protection Trust Fund" (referred to in*  
5 *this subtitle as the "Trust Fund"). The Trust Fund shall*  
6 *consist of such amounts as may be deposited in it as provided*  
7 *in this subtitle.*

8

9       *(b) Amounts in the Trust Fund shall be available, as*  
10 *provided by appropriation Acts, to implement the Montreal*  
11 *Protocol and this subtitle, to carry out the grant program*  
12 *pursuant to section 4012 of this subtitle, and to carry out the*  
13 *abatement and control activities and the research and devel-*  
14 *opment activities of the Environmental Protection Agency.*

15       *(c)(1) It shall be the duty of the Secretary to report to*  
16 *the Congress each year on the financial condition and the*  
17 *results of the operation of the Trust Fund during the preced-*  
18 *ing fiscal year and on its expected condition and operations*  
19 *during the next five fiscal years.*

20       *(2) It shall be the duty of the Secretary to invest such*  
21 *portion of the Trust Fund as is not, in the Secretary's judg-*  
22 *ment, required to meet current withdrawals. Such invest-*  
23 *ments may be made only in interest-bearing obligations of the*  
24 *United States. Such obligations may be acquired—*

*(A) as original issue at the issue price, or*



1           *(B) by purchase of outstanding obligations at the*  
 2           *market price.*

3           *(3) Any obligation acquired with moneys from such*  
 4           *Trust Fund may be sold by the Secretary at market price.*  
 5           *The interest on and the proceeds from the sale or redemption*  
 6           *of such obligation shall be credited to and become a part of*  
 7           *the Trust Fund.*

8           ***Subtitle B—Nuclear Regulatory***  
 9           ***Commission User Fees***

10          *SEC. 4101. Section 7601 of the Consolidated Omnibus*  
 11          *Budget Reconciliation Act of 1985 (COBRA) (Public Law*  
 12          *99-272) is amended to read as follows:*

13               *“(1) IN GENERAL.—The Nuclear Regulatory*  
 14               *Commission shall assess and collect annual charges*  
 15               *from its licensees on a fiscal year basis, except that—*

16                       *“(A) the maximum amount of the aggregate*  
 17                       *charges assessed pursuant to this paragraph in*  
 18                       *any fiscal year may not exceed an amount that,*  
 19                       *when added to other amounts collected by the*  
 20                       *Commission for such fiscal year under other pro-*  
 21                       *visions of law, is estimated to be equal to 33 per*  
 22                       *centum of the costs incurred by the Commission*  
 23                       *with respect to such fiscal year, except that for*  
 24                       *fiscal year 1990 such maximum amount shall be*  
 25                       *estimated to be equal to 45 per centum of the costs*

1           incurred by the Commission for fiscal year 1990;  
2           and

3           “(B) any such charge assessed pursuant to  
4           this paragraph shall be reasonably related to the  
5           regulatory service provided by the Commission  
6           and shall fairly reflect the cost to the Commission  
7           of providing such service.

8           “(2) *ESTABLISHMENT OF AMOUNT BY RULE.*—  
9           The amount of the charges assessed pursuant to this  
10          paragraph shall be established by rule.”.

11       ***Subtitle C—Payments to the Offshore***  
12       ***Oil Pollution Compensation Fund***

13       *SEC. 4201. (a) IN GENERAL.*—(1) Section 302(d)(1)  
14 of the Outer Continental Shelf Lands Act Amendments of  
15 1978 (43 U.S.C. 1812(d)(1)) is amended by striking out  
16 “not to exceed”.

17       (2) Section 302(d)(2) of the Outer Continental Shelf  
18 Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(2)) is  
19 amended by striking out “not less than \$100,000,000 and  
20 not more than” and adding in lieu thereof “not more than or  
21 less than”.

22       (b) *EFFECTIVE DATE.*—The amendment made by this  
23 section shall take effect on the date of enactment of this Act.

1 ***Subtitle D—Onondaga Lake Restoration***  
 2 ***Program***

3 ***SEC. 4301. ARMY CORPS OF ENGINEERS.***

4 *The Secretary of the Army, acting through the Chief of*  
 5 *Engineers, shall carry out a reconnaissance study for an en-*  
 6 *vironmental restoration project for Onondaga Lake as au-*  
 7 *thorized by Committee Resolution \_\_\_\_\_, as adopted by the*  
 8 *Senate Environment and Public Works Committee on July*  
 9 *9, 1989, and shall, to the degree that matching funds are*  
 10 *available, carry out the feasibility study for such project as*  
 11 *authorized by such Committee Resolution.*

12 ***TITLE V—NON-REVENUE PROVI-***  
 13 ***SIONS OF THE COMMITTEE ON***  
 14 ***FINANCE***

15 ***SEC. 5000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE***  
 16 ***OF CONTENTS.***

17 ***(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—***  
 18 *Except as otherwise expressly provided, whenever in this title*  
 19 *an amendment or repeal is expressed in terms of an amend-*  
 20 *ment to, or repeal of, a section or other provision, the refer-*  
 21 *ence shall be considered to be made to a section or other pro-*  
 22 *vision of the Social Security Act.*

23 ***(b) TABLE OF CONTENTS.—***

***TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON***  
***FINANCE***

*Sec. 5000. Amendment of the Social Security Act; table of contents.*

*Subtitle A—Medicare**PART I—PROVISIONS RELATING TO PART A OF MEDICARE**Sec. 5101. Prospective payment hospitals.**Sec. 5102. Reduction in indirect medical education payments.**Sec. 5103. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.**PART II—PROVISIONS RELATING TO PART B OF MEDICARE**SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES**Sec. 5201. Updating payments for physicians' services.**Sec. 5202. Reduction in payments for certain overvalued procedures.**Sec. 5203. Reduction in payments for radiology services.**Sec. 5204. Anesthesia services.**SUBPART B—PAYMENT FOR OTHER SERVICES**Sec. 5221. Clinical diagnostic laboratory services.**Sec. 5222. Durable medical equipment.**Sec. 5223. Payments for capital for hospital outpatient services.**PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE**Sec. 5301. Delay in payments in fiscal year 1990.**Sec. 5302. Medicare as secondary payer.**PART IV—MEDICARE PART B BASIC PREMIUM**Sec. 5401. One-year extension of part B premium minimum.**Subtitle B—Medicaid**Sec. 5501. Miscellaneous Medicaid provisions.**Subtitle C—Income Security**Sec. 5601. Proposed amendments to authorize the offset of unpaid contributions from unemployment compensation (with technical amendments).*

- 1                                   **Subtitle A—Medicare**
- 2                   **PART I—PROVISIONS RELATING TO PART A OF**
- 3                                   **MEDICARE**
- 4   **SEC. 5101. PROSPECTIVE PAYMENT HOSPITALS.**
- 5           Section           1886(b)(3)(B)(i)           (42           U.S.C.
- 6   1395ww(b)(3)(B)(i)) is amended—
- 7                   (1) by striking “and” at the end of subclause
- 8                   (IV);

(2) in subclause (V), by striking “1990” and inserting in lieu thereof “1991” and redesignating such subclause as subclause (VI); and

(3) by inserting after subclause (IV) the following new subclause:

“(V) for fiscal year 1990, the market basket percentage increase plus 3 percentage points for hospitals located in a rural area, the market basket percentage increase minus 0.7 percentage points for hospitals located in a large urban area, and the market basket percentage increase minus 1.4 percentage points for hospitals located in other urban areas, and”.

**SEC. 5102. REDUCTION IN INDIRECT MEDICAL EDUCATION PAYMENTS.**

(a) **INDIRECT MEDICAL EDUCATION PAYMENTS REDUCED.—**

(1) Section 1886(d)(5)(B)(ii) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is amended—

(A) in subclause (I), by striking “1.89” and inserting in lieu thereof “1.752”; and

(B) in subclause (II), by striking “1.43” and inserting in lieu thereof “1.329”.

(2) Section 1886(d)(3)(C)(ii) of such Act (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended—

1 (A) in subclause (I)—

2 (i) by striking “1985 and” and insert-  
3 ing in lieu thereof “1985,” and

4 (ii) by inserting “and by section 5102  
5 of the Omnibus Budget Reconciliation Act of  
6 1989” after “1987”; and

7 (B) in subclause (II)—

8 (i) by striking “1985 and” and insert-  
9 ing in lieu thereof “1985,” and

10 (ii) by inserting “and by section 5102  
11 of the Omnibus Budget Reconciliation Act of  
12 1989” after “1987”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this  
14 section shall apply to payments for discharges occurring on  
15 or after October 1, 1989.

16 **SEC. 5103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED**  
17 **COSTS OF INPATIENT HOSPITAL SERVICES FOR**  
18 **FISCAL YEAR 1990.**

19 Section 1886(g)(3)(A) of the Social Security Act (42  
20 U.S.C. 1395ww(g)(3)(A)) is amended—

21 (1) in clause (iii), by striking “and”;

22 (2) in clause (iv), by striking the period at the  
23 end and inserting “, and”; and

24 (3) by adding at the end the following new clause:

1           “(v) 13.5 percent for payments attributable to por-  
 2           tions of cost reporting periods or discharges (as the case  
 3           may be) occurring during fiscal year 1990 (excluding  
 4           such payments for such fiscal year for hospitals de-  
 5           scribed in section 1815(e)(1)(B)).”.

6           **PART II—PROVISIONS RELATING TO PART B OF**  
 7                                   **MEDICARE**

8           **Subpart A—Payment for Physicians’ Services**

9           **SEC. 5201. UPDATING PAYMENTS FOR PHYSICIANS’ SERVICES.**

10          **(a) DELAYING MEI UPDATE UNTIL APRIL 1.—**

11           **(1) IN GENERAL.—**Subject to the amendments  
 12           made by this section, any increase or adjustment in  
 13           prevailing or customary charges, fee schedule amounts,  
 14           maximum allowable actual charges, and other limits on  
 15           actual charges with respect to physicians’ services and  
 16           other items and services described in paragraph (2)  
 17           under part B of title XVIII of the Social Security Act  
 18           which would otherwise occur as of January 1, 1990,  
 19           shall be delayed so as to occur as of April 1, 1990,  
 20           and, notwithstanding any other provision of law, the  
 21           amount of payment under such part for such items and  
 22           services which are furnished during the period begin-  
 23           ning on January 1, 1990, and ending on March 31,  
 24           1990, shall be determined on the same basis as the

1        *amount of payment for such services furnished on*  
2        *December 31, 1989.*

3            (2) *ITEMS AND SERVICES COVERED.—The items*  
4        *and services described in this paragraph are items and*  
5        *services (other than ambulance services) for which pay-*  
6        *ment is made under part B of title XVIII of the*  
7        *Social Security Act on the basis of reasonable charge*  
8        *or on the basis of a fee schedule if the fee schedule is*  
9        *subject to an annual adjustment based on the percent-*  
10       *age increase in the MEI (as defined in section*  
11       *1842(i)(3) of such Act).*

12           (3) *EXTENSION OF PARTICIPATION AGREE-*  
13        *MENTS AND RELATED PROVISIONS.—Notwithstanding*  
14        *any other provision of law—*

15                (A) *subject to the last sentence of this para-*  
16        *graph, each participation agreement in effect on*  
17        *December 31, 1989, under section 1842(h)(1) of*  
18        *the Social Security Act shall remain in effect for*  
19        *the 3-month period beginning on January 1,*  
20        *1990;*

21                (B) *the effective period for such agreements*  
22        *under such section entered into for 1990 shall be*  
23        *the 9-month period beginning on April 1, 1990,*  
24        *and the Secretary shall provide an opportunity for*



1        *physicians and suppliers to enroll as participating*  
2        *physicians and suppliers before April 1, 1990;*

3            *(C) instead of publishing, under section*  
4        *1842(h)(4) of the Social Security Act, at the be-*  
5        *ginning of 1990, directories of participating phy-*  
6        *sicians and suppliers for 1990, the Secretary*  
7        *shall provide for such publication, at the begin-*  
8        *ning of the 9-month period beginning on April 1,*  
9        *1990, of such directories of participating physi-*  
10       *cians and suppliers for such period; and*

11           *(D) instead of providing to nonparticipating*  
12       *physicians under section 1842(b)(3)(G) of the*  
13       *Social Security Act at the beginning of 1990, a*  
14       *list of maximum allowable actual charges for*  
15       *1990, the Secretary shall provide such physi-*  
16       *cians, at the beginning of the 9-month period be-*  
17       *ginning on April 1, 1990, with such a list for*  
18       *such 9-month period.*

19       *An agreement with a participating physician or suppli-*  
20       *er described in subparagraph (A) in effect on December*  
21       *31, 1989, under section 1842(h)(1) of the Social Secu-*  
22       *rity Act shall not remain in effect for the period de-*  
23       *scribed in subparagraph (A) if the participating physi-*  
24       *cian or supplier requests on or before December 31,*  
25       *1989, that the agreement be terminated.*

1       (b) *UPDATE.*—Section 1842(b)(4)(E) (42 U.S.C.  
 2 1395u(b)(4)(E)) is amended by adding at the end thereof the  
 3 following new clause:

4               “(iv) For purposes of this part for physi-  
 5 cians’ services furnished in 1990, after March 31,  
 6 1990, the percentage increase in the MEI is—

7               “(I) zero percent for radiology services,

8               “(II) 2 percent for other services (other  
 9 than primary care services), and

10              “(III) such percentage increase in the  
 11 MEI (as defined in subsection (i)(3)) as  
 12 would be otherwise determined for primary  
 13 care services (as defined in subsection  
 14 (i)(4)).”.

15 **SEC. 5202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVAL-**  
 16 **UED PROCEDURES.**

17       (a) *REDUCTION IN PAYMENTS FOR IDENTIFIED*  
 18 *OVERVALUED PROCEDURES.*—

19              (1) *IN GENERAL.*—Section 1842(b) (42 U.S.C.  
 20 1395u(b)) is amended by adding at the end the follow-  
 21 ing new paragraph:

22              “(14)(A) In determining the reasonable charge for a  
 23 physician’s service specified in subparagraph (C)(i) and fur-  
 24 nished during the 9-month period beginning on April 1,  
 25 1990, the prevailing charge for such service shall be the pre-

1 *vailing charge otherwise recognized for such service for 1989*  
2 *reduced by 15 percent or, if less,  $\frac{1}{4}$  of the percent (if any) by*  
3 *which the prevailing charge otherwise applied in the locality*  
4 *in 1989 exceeds the locally-adjusted reduced prevailing*  
5 *amount (as determined under subparagraph (B)(i)) for the*  
6 *service.*

7 *“(B) For purposes of this paragraph:*

8 *“(i) The ‘locally-adjusted reduced prevailing*  
9 *amount’ for a locality for a physician’s service is equal*  
10 *to the product of (I) the reduced national weighted av-*  
11 *erage prevailing charge for the service (specified under*  
12 *clause (ii)) and (II) the adjustment factor (specified*  
13 *under clause (iii) for the locality.*

14 *“(ii) The ‘reduced national weighted average pre-*  
15 *vailing charge’ for a physician’s service is equal to the*  
16 *national weighted average prevailing charge for the*  
17 *service (specified under subparagraph (C)(ii)) reduced*  
18 *by the percentage change (specified under subpara-*  
19 *graph (C)(iii)) for the service.*

20 *“(iii) The ‘adjustment factor’ for a locality is .54*  
21 *plus the product of .46 and the geographic practice cost*  
22 *index value (specified under subparagraph (C)(iv)) for*  
23 *the locality.*

24 *“(C) For purposes of this paragraph:*

1           “(i) *The physicians’ services specified in this*  
2           *clause are the physicians’ services specified in Appen-*  
3           *dix A of the explanation of subtitle B of title X (Com-*  
4           *mittee on Ways and Means) contained in the report of*  
5           *the Committee of the Budget, House of Representa-*  
6           *tives, to accompany H.R. 3299 (‘Omnibus Budget*  
7           *Reconciliation Act of 1989’), 101st Congress, which*  
8           *specification is of physicians’ services that have been*  
9           *identified as overpriced by at least 15 percent based on*  
10          *a comparison of payments for such services under a re-*  
11          *source-based relative value scale and of the national*  
12          *average prevailing charges under this part.*

13          “(ii) *The ‘national weighted average prevailing*  
14          *charge’ specified in this clause, for a physician’s serv-*  
15          *ice specified in clause (i), is the national weighted av-*  
16          *erage prevailing charge for the service in 1989 as*  
17          *determined by the Secretary using the best data*  
18          *available.*

19          “(iii) *The ‘percent change’ specified in this*  
20          *clause, for a physician’s service specified in clause (i),*  
21          *is the percent change specified for the service in the*  
22          *Appendix referred in clause (i).*

23          “(iv) *The geographic practice cost index value*  
24          *specified in this clause for a locality is such value*

1       *specified for the locality in the Appendix referred to in*  
 2       *clause (i).*

3       “(D) *In the case of a reduction in the prevailing charge*  
 4       *for a physicians’ service under subparagraph (A), if a non-*  
 5       *participating physician furnishes the service to an individual*  
 6       *entitled to benefits under this part, after the effective date of*  
 7       *such reduction, the physician’s actual charge is subject to a*  
 8       *limit under subsection (j)(1)(D).”.*

9               (2) *SPECIAL LIMITS ON ACTUAL CHARGES.—*

10       *Section 1842(j)(1)(D) of such Act is amended—*

11               (A) *in clause (ii)(II), by inserting “or*  
 12               *(b)(14)(A)” after “(b)(10)(A)”, and*

13               (B) *in clause (iii)(II), by striking “or*  
 14               *(b)(11)(C)(i)” and inserting “(b)(11)(C)(i), or*  
 15               *(b)(14)(A)”.*

16       **SEC. 5203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERV-**  
 17       **ICES.**

18       (a) *FEE SCHEDULES FOR RADIOLOGIST SERVICES*  
 19       *REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4))*  
 20       *is amended—*

21               (1) *by redesignating subparagraphs (C) and (D)*  
 22               *as subparagraphs (D) and (E), and*

23               (2) *by inserting after subparagraph (B) the fol-*  
 24               *lowing new subparagraph:*

1                   “(C) 1990 FEE SCHEDULES.—(i) For radi-  
 2                   ology services furnished under this part during  
 3                   1990, after March 31 of such year, the fee sched-  
 4                   ules under this subsection shall be 95 percent of  
 5                   the amounts permitted under the fee schedules de-  
 6                   veloped for 1989 under subparagraph (A).

7                   “(ii) For portable X-ray services furnished  
 8                   under this part during 1990, after March 31 of  
 9                   such year, clause (i) shall be applied by substitut-  
 10                  ing ‘97’ for ‘95’.”.

11                  (b) REDUCTION IN PREVAILING CHARGES FOR RADI-  
 12                  OLOGY SERVICES.—(1) Section 1842(b) (42 U.S.C.  
 13                  1395u(b)) is amended by adding at the end thereof the follow-  
 14                  ing new paragraph:

15                  “(15) The prevailing charge levels for radiology  
 16                  services furnished during 1990, after March 31 of such  
 17                  year, shall be 98 percent of the prevailing charge levels  
 18                  for such services furnished during 1989.”.

19                  (2) Section 1842(j)(1)(D) of such Act, as amended by  
 20                  subsection (a)(2) of this section, is further amended—

21                  (i) in clause (ii)(IV), by inserting “or (b)(15)”  
 22                  before the comma at the end, and

23                  (ii) in clause (iii)(II), by striking “or  
 24                  (b)(14)(A)(i)” and inserting “(b)(14)(A), or (b)(15)”.

1       (c) *1-YEAR EXEMPTION OF NUCLEAR PHYSI-*  
 2 *CIA NS.—(1) In applying section 1834(b)(6) of the Social*  
 3 *Security Act with respect to services furnished during 1990,*  
 4 *after March 31, of such year, the term “radiologist services”*  
 5 *does not include nuclear medicine services performed by, or*  
 6 *under the direct supervision of, a physician who is certified*  
 7 *by the American Board of Nuclear Medicine or by the Amer-*  
 8 *ican Board of Radiology (with Special Competence in Nu-*  
 9 *clear Radiology).*

10       (2) *The Secretary of Health and Human Services shall*  
 11 *make such adjustments in the fee schedule under section*  
 12 *1834(b) of the Social Security Act as may be necessary to*  
 13 *ensure that the exclusion required by paragraph (1) neither*  
 14 *increases nor decreases the total amount that would have been*  
 15 *expended in 1990 for radiologist services (including the*  
 16 *services excluded pursuant to this paragraph) but for the*  
 17 *exclusion.*

18       (d) *INTERVENTIONAL RADIOLOGISTS.—In applying*  
 19 *section 1834(b) of the Social Security Act to radiology serv-*  
 20 *ices furnished in 1990, the exception for “split billing” set*  
 21 *forth at section 5262J of the Medicare Carriers Manual shall*  
 22 *apply to services furnished in 1990 in the same manner and*  
 23 *to the same extent as the exception applied to services fur-*  
 24 *nished in 1989.*

1 **SEC. 5204. ANESTHESIA SERVICES.**

2 *For purposes of payment for anesthesia services (wheth-*  
 3 *er furnished by a physician or by a certified registered nurse*  
 4 *anesthetist) furnished under part B of title XVIII of the*  
 5 *Social Security Act on or after April 1, 1990, the time units*  
 6 *shall be counted based on actual time rather than rounded to*  
 7 *full time units.*

8 **Subpart B—Payment For Other Services**

9 **SEC. 5221. CLINICAL DIAGNOSTIC LABORATORY SERVICES.**

10 (a) **SETTING FEE SCHEDULE UPDATE FOR 1990 AT**  
 11 **3 PERCENT.**—Paragraph (2)(A)(ii) of section 1833(h) (42  
 12 U.S.C. 1395l(h)) is amended—

13 (1) by striking “and” at the end of subclause (I);

14 (2) in subclause (II), by striking “1988.” and in-  
 15 serting “1988, and”; and

16 (3) by adding at the end the following new sub-  
 17 clause:

18 “(III) the annual adjustment under clause (i) to  
 19 become effective on April 1, 1990, shall be an increase  
 20 of 3 percent.”.

21 (b) **REDUCTION OF LIMITATION AMOUNT ON PAY-**  
 22 **MENT AMOUNT.**—Paragraph (4)(B) of such section is  
 23 amended—

24 (1) in clause (i), by striking “or” at the end;

25 (2) in clause (ii)—



1           (A) by striking “and so long as a fee sched-  
2           ule for the test has not been established on a na-  
3           tionwide basis,” and inserting “and before Janu-  
4           ary 1, 1990,” and

5           (B) by striking the period at the end and in-  
6           serting “, and”; and

7           (3) by adding at the end the following new clause:

8           “(iii) after December 31, 1989, and so long as a  
9           fee schedule for the test has not been established on a  
10          nationwide basis, is equal to 95 percent of the median  
11          of all the fee schedules established for that test for that  
12          laboratory setting under paragraph (1).”.

13 **SEC. 5222. DURABLE MEDICAL EQUIPMENT.**

14          (a) **DELAY IN AND REDUCTION OF UPDATE FOR**  
15 **1990.—**

16           (1) **INEXPENSIVE AND ROUTINELY PURCHASED**  
17 **DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIR-**  
18 **ING FREQUENT AND SUBSTANTIAL SERVICING.—**

19          Paragraphs (2)(B) and (3)(B) of section 1834(a) of  
20          such Act (42 U.S.C. 1395m(a)) are each amended—

21           (A) in clause (i), by striking “in 1989” and  
22           inserting “in 1989 and the first 3 months of  
23           1990”,

24           (B) in clause (i), by striking “or” at the  
25           end,

1           (C) in clause (ii), by striking “for the pre-  
 2           ceding year” and inserting “for the last day of the  
 3           preceding year”,

4           (D) by redesignating clause (ii) as clause  
 5           (iii), and

6           (E) by inserting after clause (i) the following  
 7           new clause:

8                     “(ii) in the remaining months of 1990,  
 9                     is the amount specified in clause (i) in-  
 10                    creased by 3 percent, or”.

11           (2) MISCELLANEOUS DEVICES AND ITEMS AND  
 12           OTHER COVERED ITEMS.—Paragraph (8)(A)(ii) of  
 13           such section is amended—

14           (A) in subclause (I), by striking “1989” and  
 15           inserting “1989 and the first 3 months of 1990”,

16           (B) in subclause (I), by striking “or” at the  
 17           end,

18           (C) in subclause (II), by striking “1990,  
 19           1991,” and inserting “1991”,

20           (D) in subclause (II), by striking “for the  
 21           previous year” and inserting “for the last day of  
 22           the previous year”,

23           (E) by redesignating subclause (II) as sub-  
 24           clause (III), and

1           (F) by inserting after subclause (I) the fol-  
2           lowing new subclause:

3                   “(II) in the remaining months of 1990,  
4                   is the amount specified in subclause (I) in-  
5                   creased by 3 percent, or”.

6           (3) *OXYGEN AND OXYGEN EQUIPMENT*.—Para-  
7           graph (9)(A)(ii) of such section is amended—

8                   (A) in subclause (I), by striking “1989” and  
9                   inserting “1989 and the first 3 months of 1990”,

10                  (B) in subclause (I), by striking “or” at the  
11                  end,

12                  (C) in subclause (II), by striking “1990,  
13                  1991,” and inserting “1991”,

14                  (D) in subclause (II), by striking “for the  
15                  previous year” and inserting “for the last day of  
16                  the previous year”,

17                  (E) by redesignating subclause (II) as sub-  
18                  clause (III), and

19                  (F) by inserting after subclause (I) the fol-  
20                  lowing new subclause:

21                   “(II) to the remaining months of 1990,  
22                   is the amount specified in subclause (I) in-  
23                   creased by 3 percent, or”.

24           (4) *CONFORMING AMENDMENTS*.—Such section  
25           is further amended—

1           (A) in paragraph (7)(A)(i), by striking “this  
2           subparagraph” and inserting “this clause”;

3           (B) in paragraph (8)(C)(i), by striking  
4           “(A)(ii)(I)” and inserting “(A)(ii)”; and

5           (C) in paragraphs (8) and (9)—

6                 (i) in subparagraph (B)(i), by striking  
7                 “(A)(ii)(II)” and inserting “(A)(ii)(III)”;  
8                 and

9                 (ii) in clauses (ii) and (iii) of subpara-  
10                 graph (C), by striking “(A)(ii)(II)” and in-  
11                 serting “(A)(ii)(III)”.

12       (b) *ADJUSTMENT BY SECRETARY FOR OVERPRICED*  
13 *ITEMS.*—Paragraph (1) of section 1834(a) (42 U.S.C.  
14 1395m(a)) is amended by adding at the end the following  
15 new subparagraph:

16                 “(D) *REDUCTION IN FEE SCHEDULES FOR*  
17                 *CERTAIN ITEMS.*—With respect to a seat-lift  
18                 chair or transcutaneous electrical nerve stimulator  
19                 furnished on or after April 1, 1990, the Secretary  
20                 shall reduce the payment amount applied under  
21                 subparagraph (B)(ii) for such an item by 15 per-  
22                 cent.”.

23       (c) *TREATMENT OF POWER DRIVEN WHEEL-*  
24 *CHAIRS.*—

1           (1) *AS ROUTINELY PURCHASED.*—Section  
 2   1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amend-  
 3   ed—

4                   (A) by striking “or” at the end of clause (i),

5                   (B) by adding “or” at the end of clause (ii),

6           and

7                   (C) by inserting after clause (ii) the follow-  
 8   ing new clause:

9                           “(iii) which is a power-driven wheel-  
 10                   chair (other than a customized wheelchair  
 11                   that is classified as a customized item under  
 12                   paragraph (4) pursuant to criteria specified  
 13                   by the Secretary),”.

14           (2) *AS CUSTOMIZED ITEM.*—The Secretary of  
 15   Health and Human Services (hereafter in this subsec-  
 16   tion referred to as the “Secretary”) shall by regulation  
 17   specify criteria to be used by carriers in making deter-  
 18   minations on a case by case basis as whether to classi-  
 19   fy power-driven wheelchairs as a customized item (as  
 20   described in section 1834(a)(4) of the Social Security  
 21   Act) for purposes of reimbursement under title XVIII  
 22   of the Social Security Act.

23           (3) The amendments made by paragraph (1) shall  
 24   apply to items furnished on or after April 1, 1990.

1 **SEC. 5223. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPA-**  
2 **TIENT SERVICES.**

3 *Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is*  
4 *amended—*

5 *(1) by inserting “(i)” after “(S)”, and*

6 *(2) by adding at the end the following new clause:*

7 *“(ii)(I) Such regulations shall provide that, in deter-*  
8 *mining the amount of the payments that may be made under*  
9 *this title with respect to all the capital-related costs of outpa-*  
10 *tient hospital services, the Secretary shall reduce the amounts*  
11 *of such payments otherwise established under this title by*  
12 *13.5 percent for services provided in cost reporting periods*  
13 *beginning during fiscal year 1990.*

14 *“(II) Subclause (I) shall not apply to payments with*  
15 *respect to the capital-related costs of any hospital for a cost*  
16 *reporting period if the hospital is a sole community hospital*  
17 *(as defined in section 1886(d)(5)) or is eligible to be paid as*  
18 *a sole community hospital for the period.*

19 *“(III) Subclause (I) shall not apply to payments with*  
20 *respect to the capital-related costs of any hospital for a cost*  
21 *reporting period if the hospital is a hospital (described in*  
22 *section 1815(e)(1)(B)) for the period.*

23 *“(IV) The Secretary shall apply the reduction described*  
24 *in subclause (I) to services for which payment may be based*  
25 *on a blended rate under section 1833(n) or 1833(i)(3); how-*

1 *ever, the reduction shall be applied only to that portion of the*  
 2 *payment based on hospital costs.”.*

3 ***PART III—PROVISIONS RELATING TO PARTS A AND B***  
 4 ***OF MEDICARE***

5 ***SEC. 5301. DELAY IN PAYMENTS IN FISCAL YEAR 1990.***

6 (a) *PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is*  
 7 *amended—*

8 (1) *in paragraph (2)(B)(ii)(IV), by striking “24”*  
 9 *and inserting “25”; and*

10 (2) *in paragraph (3)(B)—*

11 (A) *by striking “and” at the end of clause*

12 (i),

13 (B) *by striking the period at the end of*  
 14 *clause (ii) and inserting “, and”, and*

15 (C) *by adding at the end the following new*  
 16 *clause:*

17 “(iii) *with respect to claims received in the 12-*  
 18 *month period beginning October 1, 1989, 15 days.”.*

19 (b) *PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is*  
 20 *amended—*

21 (1) *in paragraph (2)(B)(ii)(IV), by striking “24”*  
 22 *and “17” and inserting “25” and “20”, respectively;*  
 23 *and*

24 (2) *in paragraph (3)(B)—*

1 (A) by striking “and” at the end of clause

2 (i),

3 (B) by striking the period at the end of  
4 clause (ii) and inserting “, and”, and

5 (C) by adding at the end the following new  
6 clause:

7 “(iii) with respect to claims received in the 12-  
8 month period beginning October 1, 1989, 15 days.”.

9 (c) **NECESSARY RESULT.**—Any transfer of outlays, re-  
10 ceipts, or revenues pursuant to this section, is a necessary  
11 (but secondary) result of a significant policy change for pur-  
12 poses of section 202 of Public Law 100–119.

13 **SEC. 5302. MEDICARE AS SECONDARY PAYER.**

14 (a) **IDENTIFICATION OF MEDICARE SECONDARY**  
15 **PAYER SITUATIONS.**—

16 (1) **DISCLOSURE OF CERTAIN TAXPAYER IDEN-**  
17 **TITY INFORMATION FOR VERIFICATION OF EMPLOY-**  
18 **MENT STATUS OF MEDICARE BENEFICIARY AND**  
19 **SPOUSE OF MEDICARE BENEFICIARY.**—

20 (A) **IN GENERAL.**—Subsection (l) of section  
21 6103 of the Internal Revenue Code of 1986 (re-  
22 lating to disclosure of returns and return informa-  
23 tion for purposes other than tax administration) is  
24 amended by adding at the end thereof the follow-  
25 ing new paragraph:



1           “(12) DISCLOSURE OF CERTAIN TAXPAYER  
2           IDENTITY INFORMATION FOR VERIFICATION OF EM-  
3           PLOYMENT STATUS OF MEDICARE BENEFICIARY AND  
4           SPOUSE OF MEDICARE BENEFICIARY.—

5           “(A) RETURN INFORMATION FROM INTER-  
6           NAL REVENUE SERVICE.—*The Secretary shall,*  
7           *upon written request from the Commissioner of*  
8           *Social Security, disclose to the Commissioner*  
9           *available filing status and taxpayer identity infor-*  
10          *mation from the individual master files of the In-*  
11          *ternal Revenue Service relating to whether any*  
12          *medicare beneficiary identified by the Commis-*  
13          *sioner was a married individual (as defined in*  
14          *section 7703) for any specified year after 1986,*  
15          *and, if so, the name of the spouse of such individ-*  
16          *ual and such spouse's TIN.*

17          “(B) RETURN INFORMATION FROM SOCIAL  
18          SECURITY ADMINISTRATION.—*The Commission-*  
19          *er of Social Security shall, upon written request*  
20          *from the Administrator of the Health Care Fi-*  
21          *nancing Administration, disclose to the Adminis-*  
22          *trator the following information:*

23                 “(i) *The name and TIN of each medi-*  
24                 *care beneficiary who is identified as having*  
25                 *received wages (as defined in section*

1           3401(a)) from a qualified employer in a pre-  
2           vious year.

3           “(ii) For each medicare beneficiary who  
4           was identified as married under subpara-  
5           graph (A) and whose spouse is identified as  
6           having received wages from a qualified em-  
7           ployer in a previous year—

8                   “(I) the name and TIN of the  
9                   medicare beneficiary, and

10                   “(II) the name and TIN of the  
11                   spouse.

12           “(iii) With respect to each such quali-  
13           fied employer, the name, address, and TIN  
14           of the employer and the number of individ-  
15           uals with respect to whom written statements  
16           were furnished under section 6051 by the  
17           employer with respect to such previous year.

18           “(C) DISCLOSURE BY HEALTH CARE FI-  
19           NANCING ADMINISTRATION.—With respect to the  
20           information disclosed under subparagraph (B),  
21           the Administrator of the Health Care Financing  
22           Administration may disclose—

23                   “(i) to the qualified employer referred to  
24                   in such subparagraph the name and TIN of  
25                   each individual identified under such sub-

1           *paragraph as having received wages from the*  
2           *employer (hereinafter in this subparagraph*  
3           *referred to as the 'employee') for purposes of*  
4           *determining during what period such em-*  
5           *ployee or the employee's spouse may be (or*  
6           *have been) covered under a group health plan*  
7           *of the employer and what benefits are or*  
8           *were covered under the plan (including the*  
9           *name, address, and identifying number of*  
10          *the plan),*

11           *"(ii) to any group health plan which*  
12          *provides or provided coverage to such an em-*  
13          *ployee or spouse, the name of such employee*  
14          *and the employee's spouse (if the spouse is a*  
15          *medicare beneficiary) and the name and ad-*  
16          *dress of the employer, and, for the purpose of*  
17          *presenting a claim to the plan—*

18           *"(I) the TIN of such employee if*  
19          *benefits were paid under title XVIII of*  
20          *the Social Security Act with respect to*  
21          *the employee during a period in which*  
22          *the plan was a primary plan (as de-*  
23          *finied in section 1862(b)(2)(A) of the*  
24          *Social Security Act), and*

1                   “(II) the TIN of such spouse if  
2                   benefits were paid under such title with  
3                   respect to the spouse during such period,  
4                   and

5                   “(iii) to any agent of such Administra-  
6                   tor the information referred to in subpara-  
7                   graph (B) for purposes of carrying out  
8                   clauses (i) and (ii) on behalf of such Admin-  
9                   istrator.

10                  “(D) SPECIAL RULES.—

11                   “(i) RESTRICTIONS ON DISCLO-  
12                   SURE.—Information may be disclosed under  
13                   this paragraph only for purposes of, and to  
14                   the extent necessary in, determining the  
15                   extent to which any medicare beneficiary is  
16                   covered under any group health plan.

17                   “(ii) TIMELY RESPONSE TO RE-  
18                   QUESTS.—Any request made under subpara-  
19                   graph (A) or (B) shall be complied with as  
20                   soon as possible but in no event later than  
21                   120 days after the date the request was  
22                   made.

23                   “(E) DEFINITIONS.—For purposes of this  
24                   paragraph—

1           “(i) *MEDICARE BENEFICIARY.*—*The*  
 2           *term ‘medicare beneficiary’ means an indi-*  
 3           *vidual entitled to benefits under part A, or*  
 4           *enrolled under part B, of title XVIII of the*  
 5           *Social Security Act, but does not include*  
 6           *such an individual enrolled in part A under*  
 7           *section 1818 or section 1818A.*

8           “(ii) *GROUP HEALTH PLAN.*—*The*  
 9           *term ‘group health plan’ means—*

10                   “(I) *any group health plan (as de-*  
 11                   *finied in section 5000(b)(1)), and*

12                   “(II) *any large group health plan*  
 13                   *(as defined in section 5000(b)(2)).*

14           “(iii) *QUALIFIED EMPLOYER.*—*The*  
 15           *term ‘qualified employer’ means, for a calen-*  
 16           *dar year, an employer which has furnished*  
 17           *written statements under section 6051 with*  
 18           *respect to at least 20 individuals for wages*  
 19           *paid in the year.*

20           “(F) *TERMINATION.*—*Subparagraphs (A)*  
 21           *and (B) shall not apply to—*

22                   “(i) *any request made after September*  
 23                   *30, 1991, and*

24                   “(ii) *any request made before such date*  
 25                   *for information relating to—*

1                   “(I) 1990 or thereafter in the case  
2                   of subparagraph (A), or

3                   “(II) 1991 or thereafter in the  
4                   case of subparagraph (B).”

5                   (B) SAFEGUARDS.—

6                   (i) Paragraph (3) of section 6103(a) of  
7                   such Code is amended by inserting  
8                   “(l)(12),” after “(e)(1)(D)(iii),”.

9                   (ii) Subparagraph (A) of section  
10                  6103(p)(3) of such Code is amended by  
11                  striking “or (11)” and inserting “(11), or  
12                  (12)”.

13                  (iii) Paragraph (4) of section 6103(p)  
14                  of such Code is amended in the material pre-  
15                  ceding subparagraph (A) by striking “or (9)  
16                  shall” and inserting “(9), or (12) shall”.

17                  (iv) Clause (ii) of section 6103(p)(4)(F)  
18                  of such Code is amended by striking “or  
19                  (11)” and inserting “(11), or (12)”.

20                  (v) The next to the last sentence of  
21                  paragraph (4) of section 6103(p) of such  
22                  Code is amended by inserting “or which re-  
23                  ceives any information under subsection  
24                  (l)(12)(B) and which discloses any such in-

1           *formation to any agent” before “, this para-*  
 2           *graph”.*

3           (C) *PENALTY.*—*Paragraph (2) of section*  
 4           *7213(a) of such Code is amended by striking “or*  
 5           *(10)” and inserting “(10), or (12)”.*

6           (D) *EFFECTIVE DATE.*—*The amendments*  
 7           *made by this paragraph shall take effect on Octo-*  
 8           *ber 1, 1989.*

9           (2) *RESPONSIBILITIES OF HCFA.*—

10           (A) *IN GENERAL.*—*Section 1862(b) (42*  
 11           *U.S.C. 1395y(b)), as amended by subsection*  
 12           *(b)(1) of this section, is amended by inserting*  
 13           *after paragraph (4) the following new paragraph:*

14           “(5) *IDENTIFICATION OF SECONDARY PAYER*  
 15           *SITUATIONS.*—

16           “(A) *REQUESTING MATCHING INFORMA-*  
 17           *TION.*—

18           “(i) *COMMISSIONER OF SOCIAL SECUR-*  
 19           *ITY.*—*The Commissioner of Social Securi-*  
 20           *ty shall, not less often than annually, trans-*  
 21           *mit to the Secretary of the Treasury a list of*  
 22           *the names and TINs of medicare benefici-*  
 23           *aries (as defined in section 6103(l)(12) of*  
 24           *the Internal Revenue Code of 1986) and re-*  
 25           *quest that the Secretary disclose to the Com-*

1            *missioner the information described in sub-*  
2            *paragraph (A) of such section.*

3            “(ii) *ADMINISTRATOR.—The Adminis-*  
4            *trator of the Health Care Financing Admin-*  
5            *istration shall request, not less often than an-*  
6            *nually, the Commissioner of the Social Se-*  
7            *curity Administration to disclose to the Ad-*  
8            *ministrator the information described in sub-*  
9            *paragraph (B) of section 6103(l)(12) of the*  
10           *Internal Revenue Code of 1986.*

11           “(C) *DISCLOSURE TO FISCAL INTERME-*  
12           *DIARIES AND CARRIERS.—In addition to any*  
13           *other information provided under this title to*  
14           *fiscal intermediaries and carriers, the Administra-*  
15           *tor shall disclose to such intermediaries and carri-*  
16           *ers the information received under subparagraph*  
17           *(B) for the purposes of carrying out this subsec-*  
18           *tion.*

19           “(D) *CONTACTING EMPLOYERS.—*

20           “(i) *IN GENERAL.—With respect to*  
21           *each individual (in this subparagraph re-*  
22           *ferred to as an ‘employee’) who was fur-*  
23           *nished a written statement under section*  
24           *6051 of the Internal Revenue Code of 1986*  
25           *by a qualified employer (as defined in sec-*



1            *tion 6103(l)(12)(D)(iii) of such Code), as*  
2            *disclosed under subparagraph (C), the appro-*  
3            *priate fiscal intermediary or carrier shall*  
4            *contact the employer in order to determine*  
5            *during what period the employee or employ-*  
6            *ee's spouse may be (or have been) covered*  
7            *under a group health plan of the employer*  
8            *and the nature of the coverage that is or was*  
9            *provided under the plan (including the name,*  
10           *address, and identifying number of the plan).*

11            *“(ii) EMPLOYER RESPONSE.—Within*  
12            *30 days of the date of receipt of the inquiry,*  
13            *the employer shall notify the intermediary or*  
14            *carrier making the inquiry as to the determi-*  
15            *nations described in clause (i). An employer*  
16            *(other than a Federal or other governmental*  
17            *entity) who willfully or repeatedly fails to*  
18            *provide timely and accurate notice in accord-*  
19            *ance with the previous sentence shall be sub-*  
20            *ject to a civil money penalty of not to exceed*  
21            *\$1,000 for each individual with respect to*  
22            *which such an inquiry is made. The provi-*  
23            *sions of section 1128A (other than subsec-*  
24            *tions (a) and (b)) shall apply to a civil*  
25            *money penalty under the previous sentence*

1           *in the same manner as such provisions apply*  
 2           *to a penalty or proceeding under section*  
 3           *1128A(a).*

4           “(iii) *SUNSET ON REQUIREMENT.—*  
 5           *Clause (ii) shall not apply to inquiries made*  
 6           *after September 30, 1991.”.*

7           “(B) *DEADLINE FOR FIRST REQUEST.—The*  
 8           *Commissioner of Social Security shall first—*

9                   (i) *transmit to the Secretary of the*  
 10           *Treasury information under paragraph*  
 11           *(5)(A)(i) of section 1862(b) of the Social Se-*  
 12           *curity Act (as inserted by subparagraph*  
 13           *(A)), and*

14                   (ii) *request from the Secretary disclo-*  
 15           *sure of information described in section*  
 16           *6013(l)(12)(A) of the Internal Revenue Code*  
 17           *of 1986,*

18           *by not later than October 15, 1989.*

19           ***PART IV—MEDICARE PART B BASIC PREMIUM***

20           ***SEC. 5401. ONE-YEAR EXTENSION OF PART B PREMIUM MINI-***  
 21           ***MUM.***

22           *Section 1839(e) (42 U.S.C. 1395q(e)) is amended by*  
 23           *striking “1990” each place it appears and inserting in lieu*  
 24           *thereof “1991”.*

## **Subtitle B—Medicaid**

### **SEC. 5501. MISCELLANEOUS MEDICAID PROVISIONS.**

#### **(a) NURSE AIDE TRAINING.—**

**(1) DELAY IN REQUIREMENT.—***Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—*

*(A) in subparagraph (A), by striking “January 1, 1990” and inserting “October 1, 1990”, and*

*(B) in subparagraph (B), by striking “July 1, 1989” and “January 1, 1990” and inserting “January 1, 1990” and “October 1, 1990”, respectively.*

**(2) WAIVERS FOR CERTAIN NURSE AIDES.—***Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—*

*(A) in subparagraph (A), by striking “any individual” and inserting in lieu thereof “any individual (except an individual described in subparagraph (H))”, and*

*(B) by inserting at the end thereof the following new subparagraph:*

**“(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—**

*“(i) WAIVERS.—With respect to the nurse aide training and competency require-*

1                    *ments described in subparagraph (A), a*  
2                    *State shall waive such requirements with re-*  
3                    *spect to an individual who—*

4                    *“(I) was hired as a nurse aide by*  
5                    *an employer before January 1, 1990, .*

6                    *“(II) can demonstrate to the satis-*  
7                    *faction of the State that such individual*  
8                    *has served as a nurse aide at one or*  
9                    *more facilities of the same employer in*  
10                   *the State for at least 24 consecutive*  
11                   *months, and*

12                   *“(III) has completed a 15-hour*  
13                   *course of instruction in basic skills de-*  
14                   *veloped by the State.*

15                   *“(ii) WAIVERS.—With respect to the*  
16                   *nurse aide training and competency require-*  
17                   *ments described in subparagraph (a), a State*  
18                   *shall waive such requirements with respect to*  
19                   *an individual who—*

20                   *“(I) was employed as a nurse aide*  
21                   *before January 1, 1990,*

22                   *“(II) can demonstrate to the satis-*  
23                   *faction of the State that he or she has*  
24                   *served as a nurse aide in the State in*  
25                   *the preceding 24 month period, and*

1                   “(III) has completed a nurse aide  
2                   training program that was required by  
3                   the State and established before Decem-  
4                   ber 22, 1987.”.

5           (b) *DELAY IN REQUIREMENT FOR REMEDIES.*—Sec-  
6   tion 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is  
7   amended by striking “October 1, 1989” and inserting in lieu  
8   thereof “April 1, 1991”.

9           (c) *EFFECTIVE DATES.*—Except as provided in sub-  
10 paragraph (B), the amendments made by this section shall  
11 take effect as if they were included in the enactment of the  
12 Omnibus Budget Reconciliation Act of 1987.

### 13                   **Subtitle C—Income Security**

14   SEC. 5601. *PROPOSED AMENDMENTS TO AUTHORIZE THE*  
15                   *OFFSET OF UNPAID CONTRIBUTIONS FROM UN-*  
16                   *EMPLOYMENT COMPENSATION (WITH TECHNI-*  
17                   *CAL AMENDMENTS).*

18           (a) *IN GENERAL.*—Section 303 is amended by adding  
19 at the end the following new subsection:

20           “(j)(1) *The State agency charged with administration of*  
21 *the State law may deduct and withhold from the unemploy-*  
22 *ment compensation otherwise payable to an individual an*  
23 *amount equal to the unpaid contributions, as defined in sec-*  
24 *tion 3306(g) of the Federal Unemployment Tax Act (26*

1 *U.S.C. 3306(g)), owed by the individual to the State's un-*  
 2 *employment fund.*

3       “(2) *Any amount deducted and withheld under this sub-*  
 4 *section shall for all purposes be treated as if it were paid to*  
 5 *the individual as unemployment compensation and paid by*  
 6 *such individual to the State's unemployment fund in satis-*  
 7 *faction of the contributions owed.*

8       “(3) *For purposes of this subsection, the term 'unem-*  
 9 *ployment compensation' means any unemployment compen-*  
 10 *sation payable under the State law (including amounts pay-*  
 11 *able pursuant to an agreement under a Federal unemploy-*  
 12 *ment compensation law).’.*”

13       (b) *DEDUCTIONS FROM BENEFITS.*—Section  
 14 *303(a)(5) is amended by striking out the last proviso and*  
 15 *inserting in lieu thereof the following: “Provided further,*  
 16 *That amounts may be deducted from unemployment benefits*  
 17 *and otherwise payable to an individual and used in payment*  
 18 *of obligations owed by the individual solely as provided in*  
 19 *subsections (d), (e), (g), and (j) of this section.”.*

20       (c) *FEDERAL UNEMPLOYMENT TAX.*—Section  
 21 *3304(a)(4) of the Federal Unemployment Tax Act is amend-*  
 22 *ed by amending subparagraph (D) thereof to read as follows:*

23               “(D) *amounts may be deducted from unemploy-*  
 24 *ment benefits and used in payment of obligations owed*  
 25 *by the individual solely as provided in subsections (d),*

1       (e), (g), and (j) of section 303 of the Social Security  
2       Act.”

### 3       ***TITLE VI—REVENUE MEASURES***

#### 4       *SEC. 6001. SHORT TITLE; ETC.*

5       (a) *SHORT TITLE.*—This title may be cited as the  
6       “Revenue Reconciliation Act of 1989”.

7       (b) *AMENDMENT OF 1986 CODE.*—Except as otherwise  
8       expressly provided, whenever in this title an amendment or  
9       repeal is expressed in terms of an amendment to, or repeal of,  
10      a section or other provision, the reference shall be considered  
11      to be made to a section or other provision of the Internal  
12      Revenue Code of 1986.

13      (c) *TABLE OF CONTENTS.*—

#### *TITLE VI—REVENUE MEASURES*

*Sec. 6001. Short title; etc.*

##### *Subtitle A—Corporate Provisions*

*Sec. 6201. Dividend received deduction not allowed for dividends on preferred stock of certain subsidiaries.*

*Sec. 6202. Deferral of interest deductions on certain high yield original issue discount obligations.*

*Sec. 6203. Section 351 made inapplicable to certain transfers of securities.*

*Sec. 6204. Provisions related to regulated investment companies.*

*Sec. 6205. Limitation on threshold requirement under section 382 built-in gain and loss provisions.*

*Sec. 6206. Distributions on certain preferred stock treated as extraordinary dividends.*

*Sec. 6207. Repeal of election to reduce excess loss account recapture by reducing basis of indebtedness.*

*Sec. 6208. Other provisions relating to treatment of stock and debt; etc.*

*Sec. 6209. Estimated tax payments required for S corporations.*

*Sec. 6210. Limitations on refunds due to net operating loss carrybacks or excess interest allocable to corporate equity reduction transactions.*

##### *Subtitle B—Employee Benefit Provisions*

*Sec. 6301. Limitations on partial exclusion of interest on loans used to acquire employer securities.*

*Sec. 6302. Limitation on contributions to section 401(h) accounts.*

*Subtitle C—Foreign Provisions*

- Sec. 6401. Taxable year of certain foreign corporations.*  
*Sec. 6402. Limitation on use of deconsolidation to avoid foreign tax credit limitations.*  
*Sec. 6403. Information with respect to certain foreign-owned corporations.*

*Subtitle D—Excise Tax Provisions*

- Sec. 6501. 9-Month suspension of automatic reduction in aviation-related taxes.*  
*Sec. 6502. Increase in international air passenger departure tax.*  
*Sec. 6503. Ship passengers international departure tax.*  
*Sec. 6504. Oil Spill Liability Trust Fund tax to take effect on January 1, 1990.*  
*Sec. 6505. Excise tax on sale of chemicals which deplete the ozone layer and of products containing such chemicals.*  
*Sec. 6506. Acceleration of deposit requirements for gasoline excise tax.*

*Subtitle E—Miscellaneous Provisions**PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS*

- Sec. 6601. Like kind exchanges between related persons.*

*PART II—ACCOUNTING PROVISIONS*

- Sec. 6621. Changes in treatment of transfers of franchises, trademarks, and trade names.*  
*Sec. 6622. Reserves of mutual savings banks and other thrift institutions.*

*PART III—EMPLOYMENT TAX PROVISIONS*

- Sec. 6631. Treatment of agricultural workers under wage withholding.*  
*Sec. 6632. Acceleration of deposit requirements.*

*PART IV—OTHER PROVISIONS*

- Sec. 6681. Treatment of distributions by partnerships of contributed property.*  
*Sec. 6682. Elimination of retroactive certification of employees for work incentive jobs credit.*

*Subtitle F—Coordination With Budget Act*

- Sec. 6701. Coordination with Budget Act.*

1        ***Subtitle A—Corporate Provisions***

2        ***SEC. 6201. DIVIDEND RECEIVED DEDUCTION NOT ALLOWED FOR***  
 3                    ***DIVIDENDS ON PREFERRED STOCK OF CERTAIN***  
 4                    ***SUBSIDIARIES.***

5            (a) *IN GENERAL.*—Section 246 (relating to rules for  
 6        applying deduction for dividends received) is amended by re-



1 *designating subsection (f) as subsection (g) and by inserting*  
 2 *after subsection (e) the following new subsection:*

3       “(f) *DEDUCTION DISALLOWED ON PREFERRED*  
 4 *STOCK OF SUBSIDIARY TO EXTENT TAXABLE INCOME*  
 5 *REDUCED BY LOSSES OF GROUP.—*

6               “(1) *GENERAL RULE.—No deduction shall be al-*  
 7 *lowed under section 243, 244, or 245 in respect of the*  
 8 *disallowed portion of any applicable dividend.*

9               “(2) *APPLICABLE DIVIDEND.—For purposes of*  
 10 *this subsection—*

11                   “(A) *IN GENERAL.—The term ‘applicable*  
 12 *dividend’ means any dividend—*

13                           “(i) *on stock described in section*  
 14 *1504(a)(4) in any corporation which is a*  
 15 *member of an affiliated group filing a con-*  
 16 *solidated return other than the common*  
 17 *parent (hereinafter in this subsection referred*  
 18 *to as the ‘distributing corporation’), and*

19                           “(ii) *paid out of the current earnings*  
 20 *and profits of the distributing corporation for*  
 21 *the taxable year (as determined under section*  
 22 *316(a)(2)).*

23                   “(B) *LIMITATION BASED ON CONSOLIDAT-*  
 24 *ED LOSS OFFSET.—The aggregate amount of*  
 25 *dividends treated as applicable dividends under*

1           subparagraph (A) shall not exceed the consolidat-  
2           ed loss offset of the distributing corporation.

3           “(3) *DISALLOWED PORTION.*—For purposes of  
4           this subsection, the term ‘disallowed portion’ means the  
5           portion of an applicable dividend which bears the same  
6           ratio to such dividend as—

7                     “(A) the consolidated loss offset, bears to

8                     “(B) the separately computed taxable income  
9           of the distributing corporation.

10           “(4) *CONSOLIDATED LOSS OFFSET.*—For pur-  
11           poses of this subsection, the term ‘consolidated loss  
12           offset’ means, with respect to any distributing corpora-  
13           tion, any of the following items of any other member of  
14           the same affiliated group as such corporation which are  
15           treated as used to offset the separately computed tax-  
16           able income of such corporation:

17                     “(A) Any net operating loss or any net oper-  
18           ating loss carryover under section 172.

19                     “(B) Any loss from the sale or exchange of  
20           any capital asset or any capital loss carryover  
21           under section 1212.

22                     “(C) The deduction equivalent (determined  
23           in the same manner as under section 383) of any  
24           excess credit or any excess credit carryover (deter-

1           mined under section 383 without regard to any  
2           foreign tax credit allowed under section 27(a)).

3           “(5) *SEPARATELY COMPUTED TAXABLE*  
4           *INCOME.*—The term ‘separately computed taxable  
5           income’ means the taxable income of a distributing cor-  
6           poration computed as if it were not a member of an  
7           affiliated group.

8           “(6) *REGULATIONS.*—The Secretary shall pre-  
9           scribe such regulations as may be necessary to carry  
10          out the provisions of this subsection, including regula-  
11          tions—

12                 “(A) preventing the avoidance of this subsec-  
13                 tion through the transfer of assets with built-in  
14                 losses to the distributing corporation, through de-  
15                 laying dividend payments, or through the use of  
16                 tiered entities; and

17                 “(B) exempting dividends from the applica-  
18                 tion of this subsection if the taxpayer can estab-  
19                 lish such dividends were paid from previously  
20                 taxed income.”

21          (b) *REPORTING REQUIREMENTS FOR DIVIDENDS.*—  
22          Section 6042(a) (relating to returns regarding payments of  
23          dividends and corporate earnings and profits) is amended by  
24          inserting “or” at the end of subparagraph (B) and by adding  
25          after subparagraph (B) the following new subparagraph:

1           “(C) who makes payments of applicable divi-  
 2           dends (within the meaning of section 246(f)(2)) to  
 3           any corporation a portion of which is not allow-  
 4           able as a deduction under section 243 or 245 by  
 5           reason of section 246(f),”.

6           (c) *EFFECTIVE DATES.*—

7           (1) *IN GENERAL.*—The amendment made by this  
 8           section shall apply to distributions after October 2,  
 9           1989, in respect of stock issued after such date.

10          (2) *BINDING CONTRACT EXCEPTION.*—The  
 11          amendment made by this section shall not apply to dis-  
 12          tributions after October 2, 1989, in respect to stock  
 13          issued after such date pursuant to a written binding  
 14          contract in effect on October 2, 1989, and at all times  
 15          thereafter before such issuance.

16          (3) *SPECIAL RULE WHEN SUBSIDIARY LEAVES*  
 17          *GROUP.*—If, by reason of a transaction after October  
 18          2, 1989, a corporation ceases to be, or becomes, a  
 19          member of an affiliated group, the amendment made by  
 20          this section shall apply to any distribution in respect of  
 21          the stock in such corporation after the date of such ces-  
 22          sation or commencement, unless such transaction is of  
 23          a kind which would not result in the recognition of any  
 24          deferred intercompany gain under the consolidated

1        *return regulations by reason of the acquisition of the*  
 2        *entire group.*

3            (4) *RETIRED STOCK.*—*The amendments made by*  
 4        *this section shall apply to distributions in respect of*  
 5        *stock described in paragraph (1) or (2) if such stock is*  
 6        *retired (or acquired) by the corporation or another*  
 7        *member of the same affiliated group, unless such retire-*  
 8        *ment is pursuant to an obligation to reissue under a*  
 9        *binding written contract in effect on October 1, 1989,*  
 10       *and at all times thereafter.*

11           (5) *SPECIAL RATE FOR AUCTION RATE RE-*  
 12        *FERRED.*—*For purposes of this subsection, auction*  
 13        *rate preferred stock shall be treated as issued when the*  
 14        *contract requiring the auction became binding.*

15    **SEC. 6202. DEFERRAL OF INTEREST DEDUCTIONS ON CERTAIN**  
 16                            **HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGA-**  
 17                            **TIONS.**

18           (a) *GENERAL RULE.*—*Subsection (e) of section 163*  
 19        *(relating to interest deductions on original issue discount ob-*  
 20        *ligations) is amended by redesignating paragraph (5) as*  
 21        *paragraph (6) and by inserting after paragraph (4) the fol-*  
 22        *lowing new paragraph:*

23           “(5) *SPECIAL RULE FOR ORIGINAL ISSUE DIS-*  
 24        *COUNT ON CERTAIN HIGH YIELD OBLIGATIONS.*—  
 25        *Any portion of any original issue discount on an ap-*

1     *plicable high yield discount obligation (as defined in*  
 2     *subsection (i)) otherwise deductible by a C corporation*  
 3     *shall not be allowable as a deduction until paid. For*  
 4     *purposes of the preceding sentence, rules similar to the*  
 5     *rules of subsection (i)(3)(B) shall apply in determining*  
 6     *the time when original issue discount is paid.”*

7     **(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGA-**  
 8     **TION.—***Section 163 is amended by redesignating subsection*  
 9     *(i) as subsection (j) and by inserting after subsection (h) the*  
 10    *following new subsection:*

11       **“(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGA-**  
 12    **TION.—**

13           **“(1) IN GENERAL.—***For purposes of this section,*  
 14       *the term ‘applicable high yield discount obligation’*  
 15       *means any debt instrument if—*

16               **“(A) the maturity date of such instrument is**  
 17       *more than 5 years from the date of issue,*

18               **“(B) the yield to maturity on such instru-**  
 19       *ment equals or exceeds the sum of—*

20                   **“(i) the applicable Federal rate in effect**  
 21       *under section 1274(d) for the calendar month*  
 22       *in which the obligation is issued, plus*

23                   **“(ii) 5 percentage points, and**

24               **“(C) such instrument has significant origi-**  
 25       *nal issue discount.*

1     *For purposes of subparagraph (B)(i), the Secretary*  
 2     *may by regulation permit a rate to be used with respect*  
 3     *to any debt instrument which is higher than the appli-*  
 4     *cable Federal rate if the taxpayer establishes to the sat-*  
 5     *isfaction of the Secretary that such higher rate is based*  
 6     *on the same principles as the applicable Federal rate*  
 7     *and is appropriate for the term of the instrument.*

8             “(2) *SIGNIFICANT ORIGINAL ISSUE DIS-*  
 9     *COUNT.—For purposes of paragraph (1)(C), a debt in-*  
 10    *strument shall be treated as having significant original*  
 11    *issue discount if—*

12             “(A) *the aggregate amount which would be*  
 13     *includible in gross income with respect to such in-*  
 14     *strument for periods before the close of any accru-*  
 15     *al period (as defined in section 1272(a)(5))*  
 16     *ending after the date 5 years after the date of*  
 17     *issue, exceeds—*

18             “(B) *the sum of—*

19                 “(i) *the aggregate amount of interest to*  
 20     *be paid under the instrument before the close*  
 21     *of such accrual period, and*

22                 “(ii) *the product of the issue price of*  
 23     *such instrument (as defined in sections*  
 24     *1273(b) and 1274(a)) and its yield to*  
 25     *maturity.*

1           “(3) *SPECIAL RULES.*—For purposes of deter-  
 2           mining whether a debt instrument is an applicable  
 3           high yield discount obligation—

4                   “(A) any payment under the instrument  
 5                   shall be assumed to be made on the last day per-  
 6                   mitted under the instrument, and

7                   “(B) any payment to be made in the form of  
 8                   another obligation (or stock) of the issuer (or a re-  
 9                   lated person within the meaning of section  
 10                  453(f)(1)) shall be assumed to be made when such  
 11                  obligation (or stock) is required to be paid in cash  
 12                  or in property other than such obligation (or  
 13                  stock).

14               “(4) *DEBT INSTRUMENT.*—For purposes of this  
 15               subsection, the term ‘debt instrument’ means any in-  
 16               strument which is a debt instrument as defined in sec-  
 17               tion 1275(a).

18               “(5) *REGULATIONS.*—The Secretary shall pre-  
 19               scribe such regulations as may be appropriate to carry  
 20               out the purposes of this subsection, including—

21                   “(A) regulations providing for modifications  
 22                   to the provisions of this subsection in the case of  
 23                   varying rates of interest, put or call options, in-  
 24                   definite maturities, contingent payments, assump-  
 25                   tions of debt instruments, conversion rights, or



1        *other circumstances where such modifications are*  
 2        *appropriate to carry out the purposes of this sub-*  
 3        *section, and*

4                *“(B) regulations to prevent avoidance of the*  
 5        *purposes of this subsection through the use of is-*  
 6        *suers other than C corporations, agreements to*  
 7        *borrow amounts due under the debt instrument, or*  
 8        *other arrangements.”*

9        *(c) EFFECTIVE DATE.—*

10                *(1) IN GENERAL.—Except as provided in para-*  
 11        *graph (2), the amendments made by this section shall*  
 12        *apply to instruments issued after July 10, 1989.*

13                *(2) EXCEPTIONS.—*

14                *(A) The amendments made by this section*  
 15        *shall not apply to any instrument if—*

16                        *(i) such instrument is issued in connec-*  
 17        *tion with an acquisition—*

18                                *(I) which is made on or before*  
 19        *July 10, 1989,*

20                                *(II) for which there was a written*  
 21        *binding contract in effect on July 10,*  
 22        *1989, and at all times thereafter before*  
 23        *such acquisition, or*

24                                *(III) for which a tender offer was*  
 25        *filed with the Securities and Exchange*

1                   *Commission on or before July 10,*  
2                   *1989,*

3                   *(ii) the term of such instrument is not*  
4                   *greater than—*

5                   *(I) the term specified in the writ-*  
6                   *ten documents described in clause (iii),*  
7                   *or*

8                   *(II) if no term is determined*  
9                   *under subclause (I), 10 years, and*

10                  *(iii) the use of such instrument in con-*  
11                  *nection with such acquisition (and the maxi-*  
12                  *imum amount of proceeds from such instru-*  
13                  *ment) was determined on or before July 10,*  
14                  *1989, and such determination is evidenced*  
15                  *by written documents—*

16                  *(I) which were transmitted on or*  
17                  *before July 10, 1989 between the issuer*  
18                  *and any governmental regulatory bodies*  
19                  *or prospective parties to the issuance or*  
20                  *acquisition, and*

21                  *(II) which are customarily used*  
22                  *for the type of acquisition or financing*  
23                  *involved.*

24                  *(B) The amendments made by this section*  
25                  *shall not apply to any instrument issued pursuant*

1       to the terms of a debt instrument issued on or  
2       before July 10, 1989, or described in subpara-  
3       graph (A) or (D).

4               (C) The amendments made by this section  
5       shall not apply to any instrument issued to refi-  
6       nance an original issue discount debt instrument  
7       to which the amendments made by this section do  
8       not apply if—

9               (i) the maturity date of the refinancing  
10       instrument is not later than the maturity  
11       date of the refinanced instrument,

12              (ii) the issue price of the refinancing in-  
13       strument does not exceed the adjusted issue  
14       price of the refinanced instrument,

15              (iii) the stated redemption price at ma-  
16       turity of the refinancing instrument is not  
17       greater than the stated redemption price at  
18       maturity of the refinanced instrument, and

19              (iv) the interest payments required  
20       under the refinancing instrument before ma-  
21       turity are not less than (and are paid not  
22       later than) the interest payments required  
23       under the refinanced instrument.

24              (D) The amendments made by this section  
25       shall not apply to instruments issued after

1           *July 10, 1989, pursuant to a reorganization plan*  
 2           *in a title 11 or similar case (as defined in section*  
 3           *368(a)(3) of the Internal Revenue Code of 1986)*  
 4           *if the amount of proceeds of such instruments,*  
 5           *and the maturities of such instruments, do not*  
 6           *exceed the amount or maturities specified in the*  
 7           *last reorganization plan filed in such case on or*  
 8           *before July 10, 1989.*

9   **SEC. 6203. SECTION 351 MADE INAPPLICABLE TO CERTAIN**  
 10                   **TRANSFERS OF SECURITIES.**

11           **(a) GENERAL RULE.**—*Section 351(a) (relating to non-*  
 12           *recognition in cases of transfers to corporations controlled by*  
 13           *transferor) is amended by striking “or securities”.*

14           **(b) EXCEPTIONS FOR CERTAIN EXCHANGES.**—*Sec-*  
 15           *tion 351 is amended by redesignating subsection (g) as sub-*  
 16           *section (h) and by inserting after subsection (f) the following*  
 17           *new subsection:*

18           **“(g) CERTAIN TRANSFERORS PERMITTED TO RE-**  
 19           **CEIVE SECURITIES WITHOUT RECOGNITION OF GAIN OR**  
 20           **LOSS.—**

21                   **“(1) IN GENERAL.**—*In the case of the following*  
 22           *exchanges, subsections (a), (b), (d), and (e) shall be ap-*  
 23           *plied by substituting ‘stock or securities’ for ‘stock’:*

24                           **“(A) Any exchange in pursuance of a plan**  
 25                           *of reorganization.*

1           “(B) Any exchange where the stock or secu-  
 2           rities received in the exchange are distributed in a  
 3           transaction to which section 355 (or so much of  
 4           section 356 as relates to section 355) applies.”

5           (c) CONFORMING AMENDMENTS.—Subsections (b),  
 6           (d), and (e)(2) of section 351 are each amended by striking  
 7           “or securities”.

8           (d) EFFECTIVE DATE.—

9           (1) IN GENERAL.—Except as provided in this  
 10          subsection, the amendments made by this section shall  
 11          apply to transfers after October 2, 1989, in taxable  
 12          years ending after such date.

13          (2) BINDING CONTRACT.—The amendments  
 14          made by this section shall not apply to any transfer  
 15          pursuant to a written binding contract in effect on Oc-  
 16          tober 2, 1989, and at all times thereafter before such  
 17          transfer.

18          (3) CORPORATE TRANSFERS.—In the case of  
 19          property transferred (directly or indirectly through a  
 20          partnership or otherwise) by a C corporation, para-  
 21          graphs (1) and (2) shall be applied by substituting  
 22          “July 11, 1989” for “October 2, 1989”. The preceding  
 23          sentence shall not apply where the corporation meets  
 24          the requirements of section 1504(a)(2) of the Internal  
 25          Revenue Code of 1986 with respect to the transferee

1        *corporation (and where the transfer is not part of a*  
 2        *plan pursuant to which the transferor subsequently*  
 3        *fails to meet such requirements.)*

4    **SEC. 6204. PROVISIONS RELATED TO REGULATED INVESTMENT**  
 5                                    **COMPANIES.**

6        *(a) REQUIREMENT TO DISTRIBUTE 98 PERCENT OF*  
 7    *ORDINARY INCOME.—*

8                    *(1) IN GENERAL.—Subparagraph (A) of section*  
 9        *4982(b)(1) (defining required distribution) is amended*  
 10       *by striking “97 percent” and inserting “98 percent”.*

11                   *(2) EFFECTIVE DATE.—The amendment made*  
 12       *by paragraph (1) shall apply to calendar years ending*  
 13       *after July 10, 1989.*

14       *(b) TREATMENT OF CERTAIN MUTUAL FUND LOAD*  
 15    *CHARGES.—*

16                   *(1) IN GENERAL.—Section 852 (relating to tax-*  
 17       *ation of regulated investment companies and their*  
 18       *shareholders) is amended by adding at the end thereof*  
 19       *the following new subsection:*

20       *“(f) TREATMENT OF CERTAIN LOAD CHARGES.—*

21                   *“(1) IN GENERAL.—If—*

22                   *“(A) the taxpayer incurs a load charge in*  
 23                   *acquiring stock in a regulated investment compa-*  
 24                   *ny and, by reason of incurring such charge or*

1           *making such acquisition, the taxpayer acquires a*  
2           *reinvestment right,*

3           “(B) *such stock is disposed of within 6*  
4           *months of the date on which such stock was ac-*  
5           *quired, and*

6           “(C) *the taxpayer subsequently acquires*  
7           *stock in such regulated investment company or in*  
8           *another regulated investment company and the*  
9           *otherwise applicable load charge is reduced by*  
10          *reason of the reinvestment right,*

11          *the load charge referred to in subparagraph (A) (to the*  
12          *extent it does not exceed the reduction referred to in*  
13          *subparagraph (C)) shall not be taken into account for*  
14          *purposes of determining the amount of gain or loss on*  
15          *the disposition referred to in subparagraph (B). To the*  
16          *extent such charge is not taken into account in deter-*  
17          *mining the amount of such gain or loss, such charge*  
18          *shall be treated as incurred in connection with the ac-*  
19          *quisition referred to in subparagraph (C) (including*  
20          *for purposes of reapplying this paragraph).*

21          “(2) *DEFINITIONS AND SPECIAL RULES.—For*  
22          *purposes of this subsection—*

23          “(A) *LOAD CHARGE.—The term ‘load*  
24          *charge’ means any sales or similar charge in-*  
25          *curring by a person in acquiring stock of a regu-*

1        *lated investment company. Such term does not in-*  
 2        *clude any charge incurred by reason of the rein-*  
 3        *vestment of a dividend.*

4            *“(B) REINVESTMENT RIGHT.—The term*  
 5        *‘reinvestment right’ means any right to acquire*  
 6        *stock of 1 or more other regulated investment com-*  
 7        *panies without the payment of a load charge or*  
 8        *with the payment of a reduced charge.*

9            *“(C) NONRECOGNITION TRANSACTIONS.—*  
 10       *If the taxpayer acquires stock in a regulated in-*  
 11       *vestment company from another person in a trans-*  
 12       *action in which gain or loss is not recognized, the*  
 13       *taxpayer shall succeed to the treatment of such*  
 14       *other person under this subsection.”*

15           *(2) EFFECTIVE DATE.—The amendment made*  
 16       *by paragraph (1) shall apply to charges incurred after*  
 17       *October 3, 1989, in taxable years ending after such*  
 18       *date.*

19        *(c) REGULATED INVESTMENT COMPANIES RE-*  
 20       *QUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND*  
 21       *DATE.—*

22           *(1) IN GENERAL.—Subsection (b) of section 852*  
 23       *(relating to treatment of companies and shareholders)*  
 24       *is amended by adding at the end thereof the following*  
 25       *new paragraph:*



1           “(9) *DIVIDENDS TREATED AS RECEIVED BY*  
 2           *COMPANY ON EX-DIVIDEND DATE.*—*For purposes of*  
 3           *this title, any dividend received by a regulated invest-*  
 4           *ment company with respect to any share of stock shall*  
 5           *be treated as received by such company on the later*  
 6           *of—*

7                     “(A) *the date such share became ex-dividend*  
 8                     *with respect to such dividend, or*

9                     “(B) *the date such company acquired such*  
 10                    *share.”*

11           (2) *EFFECTIVE DATE.*—*The amendment made*  
 12           *by paragraph (1) shall apply to dividends in cases*  
 13           *where the stock becomes ex-dividend after the date of*  
 14           *the enactment of this Act.*

15 **SEC. 6205. LIMITATION ON THRESHOLD REQUIREMENT UNDER**  
 16                     **SECTION 382 BUILT-IN GAIN AND LOSS PROVI-**  
 17                     **SIONS.**

18           (a) *GENERAL RULE.*—*Clause (i) of section*  
 19           *382(h)(3)(B) (relating to threshold requirement) is amended*  
 20           *to read as follows:*

21                     “(i) *IN GENERAL.*—*If the amount of*  
 22                     *the net unrealized built-in gain or net unre-*  
 23                     *alized built-in loss (determined without*  
 24                     *regard to this subparagraph) of any old loss*  
 25                     *corporation is not greater than the lesser of—*

1                   “(I) 15 percent of the amount de-  
 2                   termined for purposes of subparagraph  
 3                   (A)(i)(I), or

4                   “(II) \$25,000,000,  
 5                   the net unrealized built-in gain or net unre-  
 6                   alized built-in loss shall be zero.”

7       (b) *CONFORMING AMENDMENT TO ADJUSTED CUR-*  
 8 *RENT EARNINGS PREFERENCE.*—Subparagraph (H) of sec-  
 9 *tion 56(g)(4) (relating to treatment of certain ownership*  
 10 *changes) is amended by striking clause (ii) and all that fol-*  
 11 *lows and inserting the following:*

12                   “(ii) there is a net unrealized built-in  
 13                   loss (within the meaning of section 382(h))  
 14                   with respect to such corporation,  
 15                   then the adjusted basis of each asset of such cor-  
 16                   poration (immediately after the ownership change)  
 17                   shall be its proportionate share (determined on the  
 18                   basis of respective fair market values) of the fair  
 19                   market value of the assets of such corporation (de-  
 20                   termined under section 382(h)) immediately  
 21                   before the ownership change.”

22       (c) *EFFECTIVE DATE.*—

23                   (1) *IN GENERAL.*—Except as provided in para-  
 24                   graph (2), the amendments made by this section shall

1      *apply to ownership changes and acquisitions after Oc-*  
 2      *tober 2, 1989, in taxable years ending after such date.*

3            (2) *BINDING CONTRACT.*—*The amendments*  
 4      *made by this section shall not apply to any ownership*  
 5      *change or acquisition pursuant to a written binding*  
 6      *contract in effect on October 2, 1989, and at all times*  
 7      *thereafter before such change or acquisition.*

8            (3) *BANKRUPTCY PROCEEDINGS.*—*In the case of*  
 9      *a reorganization described in section 368(a)(1)(G) of*  
 10     *the Internal Revenue Code of 1986, or an exchange of*  
 11     *debt for stock in a title 11 or similar case (as defined*  
 12     *in section 368(a)(3) of such Code), the amendments*  
 13     *made by this section shall not apply to any ownership*  
 14     *change resulting from such a reorganization or proceed-*  
 15     *ing if a petition in such case was filed with the court*  
 16     *before October 3, 1989.*

17    **SEC. 6206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK**

18            **TREATED AS EXTRAORDINARY DIVIDENDS.**

19            (a) *GENERAL RULE.*—*Section 1059 (relating to corpo-*  
 20     *rate shareholder's basis in stock reduced by nontaxed portion*  
 21     *of extraordinary dividends) is amended by striking subsec-*  
 22     *tion (f) and inserting the following:*

23            “(f) *TREATMENT OF DIVIDENDS ON CERTAIN PRE-*  
 24     *ferred Stock.*—

1           “(1) *IN GENERAL.*—Any dividend with respect to  
2           disqualified preferred stock shall be treated as an ex-  
3           traordinary dividend to which paragraphs (1) and (2)  
4           of subsection (a) apply without regard to the period the  
5           taxpayer held the stock.

6           “(2) *DISQUALIFIED PREFERRED STOCK.*—For  
7           purposes of this subsection, the term ‘disqualified pre-  
8           ferred stock’ means any stock which is preferred as to  
9           dividends if—

10                 “(A) when issued, such stock has a dividend  
11                 rate which declines (or can reasonably be expected  
12                 to decline) in the future,

13                 “(B) the issue price of such stock exceeds its  
14                 liquidation rights or its stated redemption price,  
15                 or

16                 “(C) such stock is otherwise structured—

17                         “(i) to avoid the other provisions of this  
18                         section, and

19                         “(ii) to enable corporate shareholders to  
20                         reduce tax through a combination of dividend  
21                         received deductions and loss on the disposi-  
22                         tion of the stock.

23           “(g) *REGULATIONS.*—The Secretary shall prescribe  
24           such regulations as may be appropriate to carry out the pur-  
25           poses of this section, including regulations—

1           “(1) providing for the application of this section  
2       in the case of stock dividends, stock splits, reorganiza-  
3       tions, and other similar transactions and in the case of  
4       stock held by pass-thru entities, and

5           “(2) providing that the rules of subsection (f)  
6       shall apply in the case of stock which is not preferred  
7       as to dividends in cases where stock is structured to  
8       avoid the purposes of this section.”

9       (b) *EFFECTIVE DATE.*—

10           (1) *IN GENERAL.*—*Except as provided in para-*  
11       *graph (2), the amendment made by subsection (a) shall*  
12       *apply to stock issued after July 10, 1989, in taxable*  
13       *years ending after such date.*

14           (2) *BINDING CONTRACT.*—*The amendment made*  
15       *by subsection (a) shall not apply to any stock issued*  
16       *pursuant to a written binding contract in effect on*  
17       *July 10, 1989, and at all times thereafter before the*  
18       *stock is issued.*

19       **SEC. 6207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS AC-**  
20                       **COUNT RECAPTURE BY REDUCING BASIS OF**  
21                       **INDEBTEDNESS.**

22           (a) *GENERAL RULE.*—*Subsection (e) of section 1503*  
23       *(relating to special rule for determining adjustment to basis)*  
24       *is amended by adding at the end thereof the following new*  
25       *paragraph:*

1           “(4) *ELIMINATION OF ELECTION TO REDUCE*  
 2           *BASIS OF INDEBTEDNESS.*—*Nothing in the regula-*  
 3           *tions prescribed under section 1502 shall permit any*  
 4           *reduction in the amount otherwise included in gross*  
 5           *income by reason of an excess loss account if such re-*  
 6           *duction is on account of a reduction in the basis of in-*  
 7           *debtedness.”*

8           (b) *EFFECTIVE DATE.*—

9           (1) *IN GENERAL.*—*Except as provided in para-*  
 10          *graph (2), the amendment made by subsection (a) shall*  
 11          *apply to dispositions after July 10, 1989, in taxable*  
 12          *years ending after such date.*

13          (2) *BINDING CONTRACT.*—*The amendment made*  
 14          *by subsection (a) shall not apply to any disposition*  
 15          *pursuant to a written binding contract in effect on*  
 16          *July 10, 1989, and at all times thereafter before such*  
 17          *disposition.*

18       **SEC. 6208. OTHER PROVISIONS RELATING TO TREATMENT OF**  
 19               **STOCK AND DEBT; ETC.**

20       (a) *CLARIFICATION OF REGULATORY AUTHORITY*  
 21       *UNDER SECTION 385.*—

22           (1) *IN GENERAL.*—*Subsection (a) of section 385*  
 23           *(relating to treatment of certain interests in corpora-*  
 24           *tions as stock or indebtedness) is amended by inserting*

1       “(or as in part stock and in part indebtedness)” before  
2       the period at the end thereof.

3               (2) *REGULATIONS NOT TO BE APPLIED RETRO-*  
4       *ACTIVELY.*—Any regulations issued pursuant to the  
5       authority granted by the amendment made by para-  
6       graph (1) shall only apply with respect to instruments  
7       issued after the date on which the Secretary of the  
8       Treasury or his delegate provides public guidance as to  
9       the characterization of such instruments whether by  
10      regulation, ruling, or otherwise.

11      (b) *REPORTING OF CERTAIN ACQUISITIONS OR RE-*  
12      *CAPITALIZATIONS.*—

13              (1) *IN GENERAL.*—Section 6043 is amended by  
14      striking subsection (c) and inserting the following new  
15      subsections:

16      “(c) *CHANGES IN CONTROL AND RECAPITALIZA-*  
17      *TIONS.*—If—

18              “(1) control (as defined in section 304(c)(1)) of a  
19      corporation is acquired by any person (or group of per-  
20      sons) in a transaction (or series of related transac-  
21      tions), or

22              “(2) there is a recapitalization of a corporation or  
23      other substantial change in the capital structure of a  
24      corporation,

1 *when required by the Secretary, such corporation shall make*  
 2 *a return (at such time and in such manner as the Secretary*  
 3 *may prescribe) setting forth the identity of the parties to the*  
 4 *transaction, the fees involved, the changes in the capital*  
 5 *structure involved, and such other information as the Secre-*  
 6 *tary may require with respect to such transaction.*

7 *“(d) CROSS REFERENCES.—*

*“For provisions relating to penalties for failure to file—*

*“(1) a return under subsection (b), see section*  
*6652(c), or*

*“(2) a return under subsection (c), see section*  
*6652(l).”*

8 *(2) PENALTY.—Section 6652 is amended by*  
 9 *redesignating subsection (l) as subsection (m) and by*  
 10 *inserting after subsection (k) the following new*  
 11 *subsection:*

12 *“(l) FAILURE TO FILE RETURN WITH RESPECT TO*  
 13 *CERTAIN CORPORATE TRANSACTIONS.—In the case of any*  
 14 *failure to make a return required under section 6043(c) con-*  
 15 *taining the information required by such section on the date*  
 16 *prescribed therefor (determined with regard to any extension*  
 17 *of time for filing), unless it is shown that such failure is due*  
 18 *to reasonable cause, there shall be paid (on notice and*  
 19 *demand by the Secretary and in the same manner as tax) by*  
 20 *the person failing to file such return, an amount equal to*  
 21 *\$500 for each day during which such failure continues, but*  
 22 *the total amount imposed under this subsection with respect*  
 23 *to any return shall not exceed \$100,000.”*



1           (3) *CONFORMING AMENDMENTS.*—

2           (A) *The subsection heading for subsection (a)*  
 3           *of section 6043 is amended by striking “CORPO-*  
 4           *RATIONS” and inserting “CORPORATE LIQUI-*  
 5           *DATING, ETC., TRANSACTIONS”.*

6           (B) *The section heading for section 6043 is*  
 7           *amended to read as follows:*

8           **“SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS.”**

9           (C) *The table of sections for subpart B of*  
 10           *part III of subchapter A of chapter 61 is amend-*  
 11           *ed by striking the item relating to section 6043*  
 12           *and inserting the following:*

*“Sec. 6043. Liquidating; etc., transactions.”*

13           (4) *EFFECTIVE DATE.*—*The amendments made*  
 14           *by this subsection shall apply to transactions after*  
 15           *March 31, 1990.*

16           **SEC. 6209. ESTIMATED TAX PAYMENTS REQUIRED FOR S COR-**  
 17           **PORATIONS.**

18           (a) *IN GENERAL.*—*Subsection (g) of section 6655 (re-*  
 19           *lating to failure by corporation to pay estimated income tax)*  
 20           *is amended by adding at the end thereof the following new*  
 21           *paragraph:*

22           **“(4) APPLICATION OF SECTION TO CERTAIN**  
 23           **TAXES IMPOSED ON S CORPORATIONS.**—*In the case*  
 24           *of an S corporation, for purposes of this section—*

1           “(A) *The following taxes shall be treated as*  
2           *imposed by section 11:*

3                   “(i) *The tax imposed by section*  
4                   *1374(a) (or the corresponding provisions of*  
5                   *prior law).*

6                   “(ii) *The tax imposed by section*  
7                   *1375(a).*

8                   “(iii) *Any tax for which the S corpora-*  
9                   *tion is liable by reason of section 1371(d)(2).*

10           “(B) *Paragraph (2) of subsection (d) shall*  
11           *not apply.*

12           “(C) *Clause (ii) of subsection (d)(1)(B)*  
13           *shall be applied as if it read as follows:*

14                   “ ‘(i) *the sum of—*

15                           “ ‘(I) *the amount determined*  
16                           *under clause (i) by only taking into ac-*  
17                           *count the taxes referred to in clauses (i)*  
18                           *and (iii) of subsection (g)(4)(A), and*

19                           “ ‘(II) *100 percent of the tax im-*  
20                           *posed by section 1375(a) which was*  
21                           *shown on the return of the corporation*  
22                           *for the preceding taxable year.’*

23           “(D) *The requirement in the last sentence of*  
24           *subsection (d)(1)(B) that the return for the preced-*

1           ing taxable year show a liability for tax shall not  
2           apply.

3           “(E) Any reference in subsection (e) to tax-  
4           able income shall be treated as including a refer-  
5           ence to the net recognized built-in gain or the  
6           excess passive income (as the case may be).”

7           (b) *EFFECTIVE DATE.*—The amendment made by  
8           subsection (a) shall apply to taxable years beginning after  
9           December 31, 1989.

10   **SEC. 6210. LIMITATIONS ON REFUNDS DUE TO NET OPERATING**  
11                   **LOSS CARRYBACKS OR EXCESS INTEREST ALLO-**  
12                   **CABLE TO CORPORATE EQUITY REDUCTION**  
13                   **TRANSACTIONS.**

14           (a) *IN GENERAL.*—Paragraph (1) of section 172(b)  
15           (relating to which loss may be carried) is amended by adding  
16           at the end thereof the following new subparagraph:

17                   “(M) *EXCESS INTEREST LOSS.*—

18                           “(i) *IN GENERAL.*—If—

19                                   “(I) there is a corporate equity re-  
20                                   duction transaction, and

21                                   “(II) an applicable corporation has  
22                                   a corporate equity reduction interest  
23                                   loss for any loss limitation year ending  
24                                   after August 2, 1989,

1           *then the corporate equity reduction interest*  
2           *loss shall be a net operating loss carryback*  
3           *and carryover to the taxable years described*  
4           *in subparagraphs (A) and (B), except that*  
5           *such loss shall not be carried back to a tax-*  
6           *able year preceding the taxable year in*  
7           *which the corporate equity reduction transac-*  
8           *tion occurs.*

9           “(i) *LOSS LIMITATION YEAR.*—*For*  
10          *purposes of clause (i) and subsection (m), the*  
11          *term ‘loss limitation year’ means, with re-*  
12          *spect to any corporate equity reduction trans-*  
13          *action, the taxable year in which such trans-*  
14          *action occurs and each of the 2 succeeding*  
15          *taxable years.*

16          “(iii) *APPLICABLE CORPORATION.*—  
17          *For purposes of clause (i), the term ‘applica-*  
18          *ble corporation’ means—*

19                 “(I) *a C corporation which ac-*  
20                 *quires stock, or the stock of which is ac-*  
21                 *quired, in a major stock acquisition,*

22                 “(II) *a C corporation which makes*  
23                 *distributions with respect to, or redeems,*  
24                 *its stock in connection with an excess*  
25                 *distribution, or*

1                   “(III) any C corporation which is  
2                   a successor corporation of a corporation  
3                   described in subclause (I) or (II).

4                   “(iv) OTHER DEFINITIONS.—For defi-  
5                   nitions of terms used in this subparagraph,  
6                   see subsection (m).”

7           (b) CORPORATE EQUITY REDUCTION INTEREST  
8 LOANS AND CORPORATE EQUITY REDUCTION TRANSAC-  
9 TION DEFINED.—Section 172 is amended by redesignating  
10 subsection (m) as subsection (n) and by inserting after sub-  
11 section (l) the following new subsection:

12           “(m) CORPORATE EQUITY REDUCTION INTEREST  
13 LOSSES.—For purposes of this section—

14                   “(1) IN GENERAL.—The term ‘corporate equity  
15                   reduction interest loss’ means, with respect to any loss  
16                   limitation year, the excess (if any) of—

17                           “(A) the net operating loss for such taxable  
18                           year, over

19                           “(B) the net operating loss for such taxable  
20                           year determined without regard to any allocable  
21                           interest deductions otherwise taken into account in  
22                           computing such loss.

23           “(2) ALLOCABLE INTEREST DEDUCTIONS.—

24                   “(A) IN GENERAL.—The term ‘allocable in-  
25                   terest deductions’ means deductions allowed under

1        *this chapter for interest on the portion of any in-*  
 2        *debtedness allocable to a corporate equity reduc-*  
 3        *tion transaction.*

4                *“(B) METHOD OF ALLOCATION.—Except as*  
 5        *provided in regulations and subparagraph (E),*  
 6        *indebtedness shall be allocated to a corporate*  
 7        *equity reduction transaction in the manner pre-*  
 8        *scribed under clause (ii) of section 263A(f)(2)(A)*  
 9        *(without regard to clause (i) thereof).*

10               *“(C) ALLOCABLE DEDUCTIONS NOT TO*  
 11        *EXCEED INTEREST INCREASES.—Allocable in-*  
 12        *terest deductions for any loss limitation year shall*  
 13        *not exceed the excess (if any) of—*

14                *“(i) the amount allowable as a deduc-*  
 15        *tion for interest paid or accrued by the tax-*  
 16        *payer during the loss limitation year, over*

17                *“(ii) the average of such amounts for*  
 18        *the 3 taxable years preceding the taxable*  
 19        *year in which the corporate equity reduction*  
 20        *transaction occurred.*

21                *“(D) DE MINIMIS RULE.—A taxpayer shall*  
 22        *be treated as having no allocable interest deduc-*  
 23        *tions for any taxable year if the amount of such*  
 24        *deductions (without regard to this subparagraph)*  
 25        *is less than \$1,000,000.*

1           “(E) *SPECIAL RULE FOR CERTAIN UN-*  
2           *FORESEEABLE EVENTS.—If an unforeseeable ex-*  
3           *traordinary adverse event occurs during a loss*  
4           *limitation year but after the corporate equity re-*  
5           *duction transaction—*

6                     “(i) *indebtedness shall be allocated in*  
7                     *the manner described in subparagraph (B) to*  
8                     *unreimbursed costs paid or incurred in con-*  
9                     *nection with such event before being allocated*  
10                    *to the corporate equity reduction transaction,*  
11                    *and*

12                   “(ii) *the amount determined under sub-*  
13                    *paragraph (C)(i) shall be reduced by the*  
14                    *amount of interest on indebtedness described*  
15                    *in clause (i).*

16           “(F) *TRANSITION RULE.—If any of the 3*  
17           *taxable years described in subparagraph (C)(ii)*  
18           *end on or before August 2, 1989, the taxpayer*  
19           *may substitute for the amount determined under*  
20           *such subparagraph an amount equal to the inter-*  
21           *est paid or accrued (determined on an annualized*  
22           *basis) during the taxpayer's taxable year which*  
23           *includes August 3, 1989, on indebtedness of the*  
24           *taxpayer outstanding on August 2, 1989.*

1           “(3) *CORPORATE EQUITY REDUCTION TRANSAC-*  
2           *TION.—*

3                   “(A) *IN GENERAL.—*The term ‘corporate  
4           *equity reduction transaction’ means—*

5                           “(i) *a major stock acquisition, or*

6                           “(ii) *an excess distribution.*

7                   “(B) *MAJOR STOCK ACQUISITION.—*

8                           “(i) *IN GENERAL.—*The term ‘major  
9           *stock acquisition’ means the acquisition by a*  
10          *corporation pursuant to a plan of such corpo-*  
11          *ration (or any group of persons acting in*  
12          *concert with such corporation) of stock in an-*  
13          *other corporation representing 50 percent or*  
14          *more (by vote or value) of the stock in such*  
15          *other corporation,*

16                           “(ii) *EXCEPTIONS.—*The term ‘major  
17          *stock acquisition’ shall not include—*

18                                   “(I) *a qualified stock purchase*  
19                                   *(within the meaning of section 338) to*  
20                                   *which an election under section 338 ap-*  
21                                   *plies, or*

22                                   “(II) *except as provided in regula-*  
23                                   *tions, an acquisition in which a corpo-*  
24                                   *ration acquires stock of another corpora-*  
25                                   *tion which, immediately before the ac-*



1                   quisition, was a member of an affiliated  
2                   group (within the meaning of section  
3                   1504(a)) other than the common parent  
4                   of such group.

5                   “(C) *EXCESS DISTRIBUTION*.—The term  
6                   ‘excess distribution’ means the excess (if any)  
7                   of—

8                   “(i) the aggregate distributions (includ-  
9                   ing redemptions) made during a taxable year  
10                  by a corporation with respect to its stock,  
11                  over

12                  “(ii) the greater of—

13                  “(I) 150 percent of the average of  
14                  such distributions during the 3 taxable  
15                  years immediately preceding such tax-  
16                  able year, or

17                  “(II) 10 percent of the fair market  
18                  value of the stock of such corporation as  
19                  of the beginning of such taxable year.

20                  “(D) *RULES FOR APPLYING SUBPARA-*  
21                  *GRAPH (B)*.—For purposes of subparagraph (B)—

22                  “(i) *PLANS TO ACQUIRE STOCK*.—All  
23                  plans referred to in subparagraph (B) by  
24                  any corporation (or group of persons acting  
25                  in concert with such corporation) with re-

1           *spect to another corporation shall be treated*  
 2           *as 1 plan.*

3           “(ii) *ACQUISITIONS DURING 24-MONTH*  
 4           *PERIOD.—All acquisitions during any 24-*  
 5           *month period shall be treated as pursuant to*  
 6           *1 plan.*

7           “(E) *RULES FOR APPLYING SUBPARA-*  
 8           *GRAPH (C).—For purposes of subparagraph (C)—*

9           “(i) *CERTAIN PREFERRED STOCK DIS-*  
 10           *REGARDED.—Stock described in section*  
 11           *1504(a)(4), and distributions (including re-*  
 12           *demptions) with respect to such stock, shall*  
 13           *be disregarded.*

14           “(ii) *ISSUANCE OF STOCK.—The*  
 15           *amounts determined under clauses (i) and*  
 16           *(ii)(I) of subparagraph (C) shall be reduced*  
 17           *by the aggregate amount of stock issued by*  
 18           *the corporation during the applicable period*  
 19           *in exchange for money or property other than*  
 20           *stock in the corporation.*

21           “(4) *OTHER RULES.—*

22           “(A) *ORDERING RULE.—For purposes of*  
 23           *paragraph (1), in determining the allocable inter-*  
 24           *est deductions taken into account in computing*  
 25           *the net operating loss for any taxable year, tax-*

1        *able income for such taxable year shall be treated*  
2        *as having been computed by taking allocable in-*  
3        *terest deductions into account after all other*  
4        *deductions.*

5                *“(B) COORDINATION WITH SUBSECTION*  
6        *(B)(2).—In applying paragraph (2) of subsection*  
7        *(b), the corporate equity reduction interest loss*  
8        *shall be treated in a manner similar to the*  
9        *manner in which a foreign expropriation loss is*  
10       *treated.*

11               *“(C) MEMBERS OF AFFILIATED GROUPS.—*  
12       *Except as provided by regulations, all members of*  
13       *an affiliated group filing a consolidated return*  
14       *under section 1501 shall be treated as 1 taxpayer*  
15       *for purposes of this subsection and subsection*  
16       *(b)(1)(M).*

17               *“(5) REGULATIONS.—The Secretary shall pre-*  
18       *scribe such regulations as may be necessary to carry*  
19       *out the purposes of this subsection, including*  
20       *regulations—*

21               *“(A) for applying this subsection to successor*  
22       *corporations and in cases where a taxpayer be-*  
23       *comes, or ceases to be, a member of an affiliated*  
24       *group filing a consolidated return under section*  
25       *1501,*

1           “(B) to prevent the avoidance of this subsec-  
 2           tion through related parties, pass-through entities,  
 3           and intermediaries, and

4           “(C) for applying this subsection where more  
 5           than 1 corporation is involved in a corporate  
 6           equity reduction transaction.

7           (c) *EFFECTIVE DATE.*—

8           (1) *IN GENERAL.*—Except as provided in this  
 9           subsection, the amendments made by this section shall  
 10          apply to corporate equity reduction transactions occur-  
 11          ring after August 2, 1989, in taxable years ending  
 12          after August 2, 1989.

13          (2) *EXCEPTIONS.*—In determining whether a  
 14          corporate equity reduction transaction has occurred  
 15          after August 2, 1989, there shall not be taken into  
 16          account—

17                 (A) acquisitions or redemptions of stock, or  
 18                 distributions with respect to stock, occurring on or  
 19                 before August 2, 1989,

20                 (B) acquisitions or redemptions of stock after  
 21                 August 2, 1989, pursuant to a binding written  
 22                 contract (or tender offer filed with the Securities  
 23                 and Exchange Commission) in effect on August  
 24                 2, 1989, and at all times thereafter before such  
 25                 acquisition or redemption, or

1                   (C) any distribution with respect to stock  
2                   after August 2, 1989, which was declared on or  
3                   before August 2, 1989.

4                   Any distribution to which the preceding sentence ap-  
5                   plies shall be taken into account under section  
6                   172(m)(3)(C)(ii)(I) of the Internal Revenue Code of  
7                   1986 (relating to base period for distributions).

8                   **Subtitle B—Employee Benefit**  
9                   **Provisions**

10   **SEC. 6301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST**  
11                   **ON LOANS USED TO ACQUIRE EMPLOYER SECU-**  
12                   **RITIES.**

13                   (a) *EXCLUSION AVAILABLE ONLY WHERE EMPLOY-*  
14                   *EES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—*  
15                   Subsection (b) of section 133 (defining securities acquisition  
16                   loans) is amended by adding at the end thereof the following  
17                   new paragraph:

18                   “(6) *PLAN MUST HOLD 30 PERCENT OF STOCK*  
19                   *AFTER ACQUISITION OR TRANSFER.—*

20                   “(A) *IN GENERAL.—A loan shall not be*  
21                   *treated as a securities acquisition loan for pur-*  
22                   *poses of this section unless, immediately after the*  
23                   *acquisition or transfer referred to in subparagraph*  
24                   *(A) or (B) of paragraph (1), respectively, the em-*

1            *mployee stock ownership plan owns (after applica-*  
 2            *tion of section 318(a)(4)) at least 30 percent of—*

3                    *“(i) each class of outstanding stock of*  
 4                    *the corporation issuing the employer securi-*  
 5                    *ties, or*

6                    *“(ii) the total value of all outstanding*  
 7                    *stock of the corporation.*

8                    *“(B) STOCK.—For purposes of subpara-*  
 9                    *graph (A)—*

10                    *“(i) IN GENERAL.—The term ‘stock’*  
 11                    *means stock other than stock described in*  
 12                    *section 1504(a)(4).*

13                    *“(ii) TREATMENT OF CERTAIN*  
 14                    *RIGHTS.—The Secretary may provide that*  
 15                    *warrants, options, contracts to acquire stock,*  
 16                    *convertible debt interests and other similar*  
 17                    *interests be treated as stock for 1 or more*  
 18                    *purposes under subparagraph (A).”.*

19            *(b) TERM OF LOAN MAY NOT EXCEED 15 YEARS.—*  
 20            *Paragraph (1) of section 133(b) is amended by adding at the*  
 21            *end thereof the following new sentence: “The term ‘securities*  
 22            *acquisition loan’ shall not include a loan with a term greater*  
 23            *than 15 years.”*

1       (c) *VOTING RIGHTS*.—Subsection (b) of section 133, as  
 2       amended by subsection (a), is amended by adding at the end  
 3       thereof the following new paragraph:

4               “(7) *VOTING RIGHTS OF EMPLOYER SECURI-*  
 5       *TIES*.—A loan shall not be treated as a securities ac-  
 6       quisition loan for purposes of this section unless—

7               “(A) the employee stock ownership plan  
 8       meets the requirements of section 409(e)(2) with  
 9       respect to all employer securities acquired by, or  
 10      transferred to, the plan in connection with such  
 11      loan (without regard to whether or not the employ-  
 12      er has a registration-type class of securities), and

13              “(B) no stock described in section 409(l)(3)  
 14      is acquired by, or transferred to, the plan in con-  
 15      nection with such loan unless—

16              “(i) such stock has voting rights equiva-  
 17      lent to the stock to which it may be convert-  
 18      ed, and

19              “(ii) the requirements of subparagraph  
 20      (A) are met with respect to such voting  
 21      rights.”.

22       (d) *TAX ON DISPOSITION OF SECURITIES BY EM-*  
 23       *PLOYEE STOCK OWNERSHIP PLANS*.—

24              (1) *IN GENERAL*.—Chapter 43 is amended by in-  
 25      serting after section 4978A the following new section:

1 **"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES**  
 2 **TO WHICH SECTION 133 APPLIED.**

3 *"(a) IMPOSITION OF TAX.—In the case of an employee*  
 4 *stock ownership plan which has acquired section 133 securi-*  
 5 *ties, there is hereby imposed a tax on each taxable event in*  
 6 *an amount equal to the amount determined under subsection*  
 7 *(b).*

8 *"(b) AMOUNT OF TAX.—*

9 *"(1) IN GENERAL.—The amount of the tax im-*  
 10 *posed by subsection (a) shall be equal to 10 percent of*  
 11 *the amount realized on the disposition to the extent al-*  
 12 *locable to section 133 securities under section*  
 13 *4978A(d).*

14 *"(2) DISPOSITIONS OTHER THAN SALES OR EX-*  
 15 *CHANGES.—For purposes of paragraph (1), in the case*  
 16 *of a disposition of employer securities which is not a*  
 17 *sale or exchange, the amount realized on such disposi-*  
 18 *tion shall be the fair market value of such securities at*  
 19 *the time of disposition.*

20 *"(c) TAXABLE EVENT.—For purposes of this section,*  
 21 *the term 'taxable event' means any of the following disposi-*  
 22 *tions:*

23 *"(1) DISPOSITIONS WITHIN 3 YEARS.—Any dis-*  
 24 *position of any employer securities by an employee*  
 25 *stock ownership plan within 3 years after such plan*  
 26 *acquired section 133 securities if—*



1           “(A) the total number of employer securities  
2           held by such plan after such disposition is less  
3           than the total number of employer securities held  
4           after such acquisition, or

5           “(B) except to the extent provided in regula-  
6           tions, the value of employer securities held by  
7           such plan after the disposition is less than 30 per-  
8           cent of the total value of all employer securities as  
9           of the time of the disposition.

10          “(2) STOCK DISPOSED OF BEFORE ALLOCA-  
11          TION.—Any disposition of section 133 securities to  
12          which paragraph (1) does not apply if—

13                 “(A) such disposition occurs before such se-  
14                 curities are allocated to accounts of participants  
15                 or their beneficiaries, and

16                 “(B) the proceeds from such disposition are  
17                 not so allocated.

18          “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
19          poses of this section—

20                 “(1) EXCEPTIONS.—Rules similar to the rules of  
21                 section 4978A(e) shall apply.

22                 “(2) LIABILITY FOR PAYMENT OF TAXES.—The  
23                 tax imposed by this section shall be paid by the  
24                 employer.

1           “(3) *SECTION 133 SECURITIES.*—*The term ‘sec-*  
 2           *tion 133 securities’ means employer securities acquired*  
 3           *by an employee stock ownership plan in a transaction*  
 4           *to which section 133 applied, except that such term*  
 5           *shall not include—*

6                     “(A) *qualified securities (as defined in sec-*  
 7                     *tion 4978(e)(2)), or*

8                     “(B) *qualified employer securities (as de-*  
 9                     *finied in section 4978A(f)(2)).*

10           “(4) *DISPOSITION.*—*The term ‘disposition’ in-*  
 11           *cludes any distribution.*

12           “(5) *ORDERING RULES.*—*For ordering rules for*  
 13           *dispositions of employer securities, see section*  
 14           *4978A(d).”*

15           (2) *CONFORMING AMENDMENTS.*—

16                     (A) *Section 4978A(d) is amended by redes-*  
 17                     *ignating paragraphs (3) and (4) as paragraphs*  
 18                     *(5) and (6) and by inserting after paragraph (2)*  
 19                     *the following new paragraphs:*

20                     “(3) *Third, from section 133 securities (as de-*  
 21                     *finied in section 4978B(d)(3)) acquired during the 3-*  
 22                     *year period ending on the date of such disposition, be-*  
 23                     *ginning with the securities first so acquired.*

24                     “(4) *Fourth, from section 133 securities (as so de-*  
 25                     *finied) acquired before such 3-year period unless such*

1        *securities (or proceeds from the disposition) have been*  
 2        *allocated to accounts of participants or beneficiaries.”*

3                *(B) Section 4978A(d)(5), as redesignated by*  
 4        *clause (i), is amended by striking “Third” and*  
 5        *inserting “Fifth”.*

6                *(C) The table of sections for chapter 43 is*  
 7        *amended by inserting after the item relating to*  
 8        *section 4978A the following new item:*

*“Sec. 4978B. Tax on disposition of employer securities to which  
 section 133 applied.”.*

9        *(e) EFFECTIVE DATES.—*

10                *(1) IN GENERAL.—Except as provided in this*  
 11        *subsection, the amendments made by this section shall*  
 12        *apply to loans made after June 6, 1989.*

13                *(2) BINDING COMMITMENT EXCEPTION.—The*  
 14        *amendments made by this section shall not apply to*  
 15        *any loan—*

16                *(A) which is made pursuant to a binding*  
 17        *written commitment in effect on June 6, 1989,*  
 18        *and at all times thereafter before such loan is*  
 19        *made, or*

20                *(B) to the extent that the proceeds of such*  
 21        *loan are used to acquire employer securities pur-*  
 22        *suant to a written binding contract (or tender*  
 23        *offer registered with the Securities and Exchange*  
 24        *Commission) in effect on June 6, 1989, and at*

1           all times thereafter before such securities are  
2           acquired.

3           (3) *REFINANCINGS.*—*The amendments made by*  
4           *this section shall not apply to loans made after June 6,*  
5           *1989, to refinance securities acquisition loans (deter-*  
6           *mined without regard to section 133(b)(2) of the Inter-*  
7           *nal Revenue Code of 1986) made on or before such*  
8           *date or to refinance loans described in this paragraph*  
9           *or paragraph (2), (4), or (5) if—*

10                   (A) *such refinancing loans meet the require-*  
11                   *ments of such section 133 of such Code (as in*  
12                   *effect before such amendments) applicable to such*  
13                   *loans,*

14                   (B) *immediately after the refinancing the*  
15                   *principal amount of the loan resulting from the*  
16                   *refinancing does not exceed the principal amount*  
17                   *of the refinanced loan (immediately before the*  
18                   *refinancing), and*

19                   (C) *the term of such refinancing loan does*  
20                   *not extend beyond the later of—*

21                           (i) *the last day of the term of the origi-*  
22                           *nal securities acquisition loan, or*

23                           (ii) *the last day of the 7-year period be-*  
24                           *ginning on the date the original securities*  
25                           *acquisition loan was made.*

1     *For purposes of this paragraph, the term “securities*  
2     *acquisition loan” shall include a loan from a corpora-*  
3     *tion to an employee stock ownership plan described in*  
4     *section 133(b)(3) of such Code.*

5             (4) *COLLECTIVE BARGAINING AGREEMENTS.—*

6     *The amendments made by this section shall not apply*  
7     *to any loan to the extent such loan is used to acquire*  
8     *employer securities for an employee stock ownership*  
9     *plan pursuant to a collective bargaining agreement set-*  
10    *ting forth the material terms of such employee stock*  
11    *ownership plan which was agreed to on or before June*  
12    *6, 1989, by one or more employers and employee rep-*  
13    *resentatives (and ratified on or before such date or*  
14    *within a reasonable period thereafter).*

15            (5) *FILINGS WITH UNITED STATES.—The*  
16    *amendments made by this section shall not apply to*  
17    *any loan the aggregate principal amount of which was*  
18    *specified in a filing with an agency of the United*  
19    *States on or before June 6, 1989, if—*

20            (A) *such filing specifies such loan is to be a*  
21    *securities acquisition loan for purposes of section*  
22    *133 of the Internal Revenue Code of 1986 and*  
23    *such filing is for the registration required to*  
24    *permit the offering of such loan, or*

1           (B) such filing is for the approval required  
 2           in order for the employee stock ownership plan to  
 3           acquire more than a certain percentage of the  
 4           stock of the employer.

5 **SEC. 6302. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h)**  
 6 **ACCOUNTS.**

7       (a) *IN GENERAL.*—Section 401(h) is amended by  
 8 adding at the end thereof the following new sentence: “In no  
 9 event shall the requirements of paragraph (1) be treated as  
 10 met if the aggregate actual contributions for medical benefits,  
 11 when added to actual contributions for life insurance protec-  
 12 tion under the plan, exceed 25 percent of the total actual  
 13 contributions to the plan (other than contributions to fund  
 14 past service credits) after the date on which the account is  
 15 established.”

16       (b) *EFFECTIVE DATE.*—The amendment made by this  
 17 section shall apply to contributions after October 3, 1989.

18           **Subtitle C—Foreign Provisions**

19 **SEC. 6401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORA-**  
 20 **TIONS.**

21       (a) *GENERAL RULE.*—Subpart D of part II of sub-  
 22 chapter N of chapter 1 (relating to miscellaneous provisions)  
 23 is amended by adding at the end thereof the following new  
 24 section:

1 **"SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORA-**  
 2 **TIONS.**

3 *"(a) GENERAL RULE.—For purposes of this title, the*  
 4 *taxable year of any specified foreign corporation shall be the*  
 5 *required year determined under subsection (c).*

6 *"(b) SPECIFIED FOREIGN CORPORATION.—For pur-*  
 7 *poses of this section—*

8 *"(1) IN GENERAL.—The term 'specified foreign*  
 9 *corporation' means any foreign corporation—*

10 *"(A) which is—*

11 *"(i) treated as a controlled foreign cor-*  
 12 *poration for any purpose under subpart F of*  
 13 *part III of this subchapter, or*

14 *"(ii) a foreign personal holding com-*  
 15 *pany (as defined in section 552), and*

16 *"(B) with respect to which the ownership re-*  
 17 *quirements of paragraph (2) are met.*

18 *"(2) OWNERSHIP REQUIREMENTS.—*

19 *"(A) IN GENERAL.—The ownership require-*  
 20 *ments of this paragraph are met with respect to*  
 21 *any foreign corporation if a United States share-*  
 22 *holder owns, on each testing day, more than 50*  
 23 *percent of—*

24 *"(i) the total voting power of all classes*  
 25 *of stock of such corporation entitled to vote,*  
 26 *or*

1                   “(ii) the total value of all classes of  
2                   stock of such corporation.

3                   “(B) OWNERSHIP.—For purposes of sub-  
4                   paragraph (A), the rules of subsections (a) and (b)  
5                   of section 958 and sections 551(f) and 554,  
6                   whichever are applicable, shall apply in determin-  
7                   ing ownership.

8                   “(3) UNITED STATES SHAREHOLDER.—

9                   “(A) IN GENERAL.—The term ‘United  
10                  States shareholder’ has the meaning given to such  
11                  term by section 951(b), except that, in the case of  
12                  a foreign corporation having related person insur-  
13                  ance income (as defined in section 953(c)(2)), the  
14                  Secretary may treat any person as a United  
15                  States shareholder for purposes of this section if  
16                  such person is treated as a United States share-  
17                  holder under section 953(c)(1).

18                  “(B) FOREIGN PERSONAL HOLDING COM-  
19                  PANIES.—In the case of any foreign personal  
20                  holding company (as defined in section 552)  
21                  which is not a specified foreign corporation by  
22                  reason of paragraph (1)(A)(i), the term ‘United  
23                  States shareholder’ means any person who is  
24                  treated as a United States shareholder under sec-  
25                  tion 551.



1       “(c) *DETERMINATION OF REQUIRED YEAR.*—

2               “(1) *CONTROLLED FOREIGN CORPORATIONS.*—

3                       “(A) *IN GENERAL.*—*In the case of a speci-*  
4                       *fied foreign corporation described in subsection*  
5                       *(b)(1)(A)(i), the required year is—*

6                               “(i) *the majority U.S. shareholder year,*  
7                               *or*

8                               “(ii) *if there is no majority U.S. share-*  
9                               *holder year, the taxable year prescribed*  
10                              *under regulations.*

11                       “(B) *1-MONTH DEFERRAL ALLOWED.*—  
12                       *Except as provided in paragraph (2), a specified*  
13                       *foreign corporation may elect, in lieu of the tax-*  
14                       *able year under subparagraph (A)(i), a taxable*  
15                       *year beginning 1 month earlier than the majority*  
16                       *U.S. shareholder year.*

17                       “(C) *MAJORITY U.S. SHAREHOLDER*  
18                       *YEAR.*—

19                               “(i) *IN GENERAL.*—*For purposes of*  
20                               *this subsection, the term ‘majority U.S.*  
21                               *shareholder year’ means the taxable year (if*  
22                               *any) which, on each testing day, constituted*  
23                               *the taxable year of—*

1                   “(I) each United States sharehold-  
 2                   er described in subsection (b)(2)(A),  
 3                   and

4                   “(II) each United States share-  
 5                   holder not described in subclause (I)  
 6                   whose stock was treated as owned under  
 7                   subsection (b)(2)(B) by any shareholder  
 8                   described in such subclause.

9                   “(ii) *TESTING DAY*.—The testing days  
 10                  shall be—

11                  “(I) the first day of the corpora-  
 12                  tion’s taxable year (determined without  
 13                  regard to this section), or

14                  “(II) the days during such repre-  
 15                  sentative period as the Secretary may  
 16                  prescribe.

17                  “(2) *FOREIGN PERSONAL HOLDING COMPA-*  
 18                  *NIES*.—In the case of a foreign personal holding com-  
 19                  pany described in subsection (b)(3)(B), the required  
 20                  year shall be determined under paragraph (1), except  
 21                  that subparagraph (B) of paragraph (1) shall not  
 22                  apply.”

23                  (b) *TREATMENT OF DIVIDENDS PAID AFTER CLOSE*  
 24                  *OF TAXABLE YEAR*.—

1           (1) *IN GENERAL.*—Section 563 is amended by  
 2       redesignating subsection (c) as subsection (d) and by  
 3       inserting after subsection (b) the following new sub-  
 4       section:

5       “(c) *FOREIGN PERSONAL HOLDING COMPANY*  
 6       *TAX.*—

7           “(1) *IN GENERAL.*—In the determination of the  
 8       dividends paid deduction for purposes of part III, a  
 9       dividend paid after the close of any taxable year and  
 10      on or before the 15th day of the 3rd month following  
 11      the close of such taxable year shall, to the extent the  
 12      company designates such dividend as being taken into  
 13      account under this subsection, be considered as paid  
 14      during such taxable year. The amount allowed as a de-  
 15      duction by reason of the application of this subsection  
 16      with respect to any taxable year shall not exceed the  
 17      undistributed foreign personal holding company income  
 18      of the corporation for the taxable year computed with-  
 19      out regard to this subsection.

20          “(2) *SPECIAL RULES.*—In the case of any distri-  
 21      bution referred to in paragraph (1)—

22           “(A) paragraph (1) shall apply only if such  
 23      distribution is to the person who was the share-  
 24      holder of record (as of the last day of the taxable  
 25      year of the foreign personal holding company)

1           *with respect to the stock for which such distribu-*  
 2           *tion is made,*

3           *“(B) the determination of the person required*  
 4           *to include such distribution in gross income shall*  
 5           *be made under the principles of section 551(f),*  
 6           *and*

7           *“(C) any person required to include such*  
 8           *distribution in gross or distributable net income*  
 9           *shall include such distribution in income for such*  
 10          *person’s taxable year in which the taxable year of*  
 11          *the foreign personal holding company ends.”*

12          (2) *CONFORMING AMENDMENT.*—*Subsection (d)*  
 13          *of section 563 (as redesignated by paragraph (1)) is*  
 14          *amended by striking “subsection (a) or (b)” and in-*  
 15          *serting “subsection (a), (b), or (c)”.*

16          (c) *CLERICAL AMENDMENT.*—*The table of sections for*  
 17          *subpart D of part II of subchapter N of chapter 1 is amended*  
 18          *by adding at the end thereof the following new item:*

*“Sec. 898. Taxable year of certain foreign corporations.”*

19          (d) *EFFECTIVE DATE.*—

20                 (1) *IN GENERAL.*—*The amendments made by*  
 21                 *this section shall apply to taxable years of foreign cor-*  
 22                 *porations beginning after July 10, 1989.*

23                 (2) *SPECIAL RULES.*—*If any foreign corporation*  
 24                 *is required by the amendments made by this section to*

1        *change its taxable year for its first taxable year begin-*  
 2        *ning after July 10, 1989—*

3                *(A) such change shall be treated as initiated*  
 4                *by the taxpayer,*

5                *(B) such change shall be treated as having*  
 6                *been made with the consent of the Secretary of the*  
 7                *Treasury or his delegate, and*

8                *(C) if, by reason of such change, any United*  
 9                *States person is required to include in gross*  
 10               *income for 1 taxable year amounts attributable to*  
 11               *2 taxable years of such foreign corporation, the*  
 12               *amount which would otherwise be required to be*  
 13               *included in gross income for such 1 taxable year*  
 14               *by reason of the short taxable year of the foreign*  
 15               *corporation resulting from such change shall be*  
 16               *included in gross income ratably over the 4-tax-*  
 17               *able-year period beginning with such 1 taxable*  
 18               *year.*

19    **SEC. 6402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID**  
 20                **FOREIGN TAX CREDIT LIMITATIONS.**

21        *(a) GENERAL RULE.—Section 904 (relating to limita-*  
 22        *tions on foreign tax credit) is amended by redesignating sub-*  
 23        *section (i) as subsection (j) and by inserting after subsection*  
 24        *(h) the following new subsection:*

1       “(i) *LIMITATION ON USE OF DECONSOLIDATION TO*  
 2 *AVOID FOREIGN TAX CREDIT LIMITATIONS.*—If 2 or  
 3 more domestic corporations would be members of the same  
 4 affiliated group if—

5               “(1) section 1504(b) were applied without regard  
 6 to the exceptions contained therein, and

7               “(2) the constructive ownership rules of section  
 8 1563(e) applied for purposes of section 1504(a),  
 9 the Secretary may by regulations provide for resourcing the  
 10 income of any of such corporations or for modifications to the  
 11 consolidated return regulations to the extent that such re-  
 12 sourcing or modifications are necessary to prevent the avoid-  
 13 ance of the provisions of this subpart.”

14       (b) *EFFECTIVE DATE.*—The amendment made by  
 15 subsection (a) shall apply to taxable years beginning after  
 16 July 10, 1989.

17 **SEC. 6403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-**  
 18 **OWNED CORPORATIONS.**

19       (a) *25-PERCENT FOREIGN-OWNED CORPORATIONS*  
 20 *REQUIRED TO REPORT.*—

21               (1) Paragraph (2) of section 6038A(a) is amend-  
 22 ed to read as follows:

23               “(2) is 25-percent foreign-owned,”.

24               (2) Subsection (c) of section 6038A is amended to  
 25 read as follows:

1       “(c) *DEFINITIONS.*—*For purposes of this section—*

2               “(1) *25-PERCENT FOREIGN-OWNED.*—*A corpora-*  
3       *tion is 25-percent foreign-owned if at least 25 percent*  
4       *of—*

5               “(A) *the total voting power of all classes of*  
6       *stock of such corporation entitled to vote, or*

7               “(B) *the total value of all classes of stock of*  
8       *such corporation,*  
9       *is owned at any time during the taxable year by 1 for-*  
10       *foreign person (hereinafter in this section referred to as a*  
11       *‘25-percent foreign shareholder’).*

12              “(2) *RELATED PARTY.*—*The term ‘related party’*  
13       *means—*

14              “(A) *any 25-percent foreign shareholder of*  
15       *the reporting corporation,*

16              “(B) *any person who is related (within the*  
17       *meaning of section 267(b) or 707(b)(1)) to the re-*  
18       *porting corporation or to a 25-percent foreign*  
19       *shareholder of the reporting corporation, and*

20              “(C) *any other person who is related (within*  
21       *the meaning of section 482) to the reporting corpo-*  
22       *ration.*

23              “(4) *FOREIGN PERSON.*—*The term ‘foreign*  
24       *person’ means any person who is not a United States*  
25       *person. For purposes of the preceding sentence, the*

1        term ‘United States person’ has the meaning given to  
 2        such term by section 7701(a)(30), except that any in-  
 3        dividual who is a citizen of any possession of the  
 4        United States (but not otherwise a citizen of the  
 5        United States) and who is not a resident of the United  
 6        States shall not be treated as a United States person.

7            “(5) *RECORDS*.—The term ‘records’ includes any  
 8        books, papers, or other data.

9            “(6) *SECTION 318 TO APPLY*.—Section 318 shall  
 10       apply for purposes of paragraphs (1) and (2), except  
 11       that—

12            “(A) ‘10 percent’ shall be substituted for ‘50  
 13       percent’ in section 318(a)(2)(C), and

14            “(B) subparagraphs (A), (B), and (C) of  
 15       section 318(a)(3) shall not be applied so as to  
 16       consider a United States person as owning stock  
 17       which is owned by a person who is not a United  
 18       States person.”

19        (b) *U.S. RECORDKEEPING REQUIREMENTS*.—Sub-  
 20       section (a) of section 6038A is amended by inserting before  
 21       the period at the end thereof the following: “and such corpora-  
 22       tion shall maintain (in the location, in the manner, and to  
 23       the extent prescribed in regulations) such records as may be  
 24       appropriate to determine the correct treatment of transactions  
 25       with related parties as the Secretary shall by regulations pre-



1 scribe (or shall cause another person to so maintain such  
2 records)''.

3 (c) *INCREASE IN PENALTY.*—Subsection (d) of section  
4 6038A is amended to read as follows:

5 “(d) *PENALTY FOR FAILURE TO FURNISH INFORMA-*  
6 *TION OR MAINTAIN RECORDS.*—

7 “(1) *IN GENERAL.*—If a reporting corporation—

8 “(A) fails to furnish (within the time pre-  
9 scribed by regulations) any information described  
10 in subsection (b), or

11 “(B) fails to maintain (or cause another to  
12 maintain) records as required by subsection (a),  
13 such corporation shall pay a penalty of \$10,000 for  
14 each taxable year with respect to which such failure  
15 occurs.

16 “(2) *INCREASE IN PENALTY WHERE FAILURE*  
17 *CONTINUES AFTER NOTIFICATION.*—If any failure de-  
18 scribed in paragraph (1) continues for more than 90  
19 days after the day on which the Secretary mails notice  
20 of such failure to the reporting corporation, such corpo-  
21 ration shall pay a penalty (in addition to the amount  
22 required under paragraph (1)) of \$10,000 for each 30-  
23 day period (or fraction thereof) during which such fail-  
24 ure continues after the expiration of such 90-day  
25 period.

1           “(3) *REASONABLE CAUSE.*—*For purposes of this*  
 2           *subsection, the time prescribed by regulations to fur-*  
 3           *nish information or maintain records (and the begin-*  
 4           *ning of the 90-day period after notice by the Secretary)*  
 5           *shall be treated as not earlier than the last day on*  
 6           *which (as shown to the satisfaction of the Secretary)*  
 7           *reasonable cause existed for failure to furnish the in-*  
 8           *formation or maintain the records.”*

9           (d) *ENFORCEMENT OF INFORMATION REQUESTS.*—  
 10          *Section 6038A is amended by redesignating subsection (e) as*  
 11          *subsection (f) and by inserting after subsection (d) the follow-*  
 12          *ing new subsection:*

13          “(e) *ENFORCEMENT OF REQUESTS FOR CERTAIN*  
 14          *RECORDS.*—

15                 “(1) *AGREEMENT TO TREAT CORPORATION AS*  
 16                 *AGENT.*—*The rules of paragraph (3) shall apply to*  
 17                 *any transaction between the reporting corporation and*  
 18                 *any related party who is a foreign person unless such*  
 19                 *related party agrees (in such manner and at such time*  
 20                 *as the Secretary shall prescribe) to authorize the re-*  
 21                 *porting corporation to act as such related party’s agent*  
 22                 *solely for purposes of applying sections 7602, 7603,*  
 23                 *and 7604 with respect to any request to examine*  
 24                 *records or produce testimony related to any such trans-*

1     *action or with respect to any summons for such records*  
 2     *or testimony.*

3             “(2) *RULES WHERE INFORMATION NOT FUR-*  
 4     *NISHED.—If—*

5             “(A) *for purposes of determining the correct*  
 6             *treatment of any transaction between the reporting*  
 7             *corporation and a related party who is a foreign*  
 8             *person, the Secretary issues a summons to such*  
 9             *corporation to produce (either directly or as agent*  
 10            *for such related party) any records or testimony,*

11            “(B) *such summons is not quashed in a pro-*  
 12            *ceeding begun under paragraph (4) and is not de-*  
 13            *termined to be invalid in a proceeding begun*  
 14            *under section 7604(b) to enforce such summons,*  
 15            *and*

16            “(C) *the reporting corporation does not sub-*  
 17            *stantially comply in a timely manner with such*  
 18            *summons,*

19     *the Secretary may apply the rules of paragraph (3)*  
 20     *with respect to such transaction (whether or not the*  
 21     *Secretary begins a proceeding to enforce such sum-*  
 22     *mons). If the reporting corporation fails to maintain*  
 23     *(or cause another to maintain) records as required by*  
 24     *subsection (a), and by reason of that failure, the sum-*  
 25     *mons is quashed in a proceeding described in subpara-*

1      *graph (B) or the reporting corporation is not able to*  
 2      *provide the records requested in the summons, the Sec-*  
 3      *retary may apply the rules of paragraph (3) with re-*  
 4      *spect to any transaction to which the records relate.*

5            *“(3) APPLICABLE RULES IN CASES OF NONCOM-*  
 6      *PLIANCE.—If the rules of this paragraph apply to any*  
 7      *transaction—*

8            *“(A) the amount of the deduction allowed*  
 9            *under subtitle A for any amount paid or incurred*  
 10          *by the reporting corporation to the related party in*  
 11          *connection with such transaction, and*

12           *“(B) the cost to the reporting corporation of*  
 13           *any property acquired in such transaction from*  
 14           *the related party (or transferred by such corpora-*  
 15           *tion in such transaction to the related party),*  
 16      *shall be the amount determined by the Secretary in the*  
 17      *Secretary’s sole discretion from the Secretary’s own*  
 18      *knowledge or from such information as the Secretary*  
 19      *may obtain through testimony or otherwise.*

20           *“(4) PROCEEDING TO QUASH.—*

21           *“(A) IN GENERAL.—Notwithstanding any*  
 22           *law or rule of law, any reporting corporation to*  
 23           *which the Secretary issues a summons referred to*  
 24           *in paragraph (2)(A) shall have the right to begin*  
 25           *a proceeding to quash such summons not later*

1        *than the 90th day after such summons was*  
2        *issued. In any such proceeding, the Secretary*  
3        *may seek to compel compliance with such sum-*  
4        *mons.*

5                *“(B) JURISDICTION.—The United States*  
6        *district court for the district in which the person*  
7        *(to whom the summons is issued) resides or is*  
8        *found shall have jurisdiction to hear any proceed-*  
9        *ing brought under subparagraph (A). An order de-*  
10       *nying the petition shall be treated as a final order*  
11       *which may be appealed.*

12                *“(C) SUSPENSION OF STATUTE OF LIMITA-*  
13       *TIONS.—If the reporting corporation brings an*  
14       *action under subparagraph (A) to quash the sum-*  
15       *mons referred to in paragraph (2)(A), the running*  
16       *of any period of limitations under section 6501*  
17       *(relating to assessment and collection of tax) or*  
18       *under section 6531 (relating to criminal prosecu-*  
19       *tions) with respect to any transaction to which the*  
20       *summons relates shall be suspended for the period*  
21       *during which such proceeding, and appeals there-*  
22       *in, are pending. In no event shall any such period*  
23       *expire before the 90th day after the day on which*  
24       *there is a final determination in such proceed-*  
25       *ing.”*

1       (e) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to taxable years beginning after July 10,*  
 3 *1989.*

## 4       ***Subtitle D—Excise Tax Provisions***

### 5       ***SEC. 6501. 9-MONTH SUSPENSION OF AUTOMATIC REDUCTION IN*** 6               ***AVIATION-RELATED TAXES.***

7       (a) *IN GENERAL.*—*Subsection (a) of section 4283 (re-*  
 8 *lating to reduction in aviation-related taxes in certain cases)*  
 9 *is amended by striking “during 1990” and inserting “after*  
 10 *September 30, 1990”.*

11       (b) *CONFORMING AMENDMENTS.*—

12               (1) *Clause (i) of section 4283(b)(1)(A) is amend-*  
 13 *ed by striking “1988 and 1989” and inserting “1989*  
 14 *and 1990”.*

15               (2) *Paragraph (3) of section 4283(b) is*  
 16 *amended—*

17                       (A) *by striking “December 1, 1989” and in-*  
 18 *serting “September 1, 1990”, and*

19                       (B) *by striking “during 1990” and inserting*  
 20 *“after September 30, 1990”.*

21               (3) *Subsection (q) of section 6427 is amended by*  
 22 *striking “during 1990” each place it appears and in-*  
 23 *serting “after September 30, 1990”.*

1 **SEC. 6502. INCREASE IN INTERNATIONAL AIR PASSENGER DE-**  
 2 **PARTURE TAX.**

3 (a) *IN GENERAL.*—Section 4261(c) (relating to tax on  
 4 use of international travel facilities) is amended by striking  
 5 “\$3” and inserting “\$6”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 7 section (a) shall apply with respect to transportation begin-  
 8 ning after December 31, 1989.

9 **SEC. 6503. SHIP PASSENGERS INTERNATIONAL DEPARTURE**  
 10 **TAX.**

11 (a) *IN GENERAL.*—Chapter 36 (relating to certain  
 12 other excise taxes) is amended by inserting after subchapter  
 13 A the following new subchapter:

14 **“Subchapter B—Transportation by Water**

“Sec. 4471. Imposition of tax.

“Sec. 4472. Definitions and special rules.

15 **“SEC. 4471. IMPOSITION OF TAX.**

16 “(a) *IN GENERAL.*—There is hereby imposed a tax of  
 17 \$3 per passenger on a covered voyage.

18 “(b) *BY WHOM PAID.*—The tax imposed by this sec-  
 19 tion shall be paid by the person providing the covered voyage.

20 “(c) *TIME OF IMPOSITION.*—The tax imposed by this  
 21 section shall be imposed only once for each passenger on a  
 22 covered voyage, either at the time of first embarkation or dis-  
 23 embarkation in the United States.

1 **"SEC. 4472. DEFINITIONS.**

2 *"For purposes of this subchapter—*

3 *"(1) COVERED VOYAGE.—*

4 *"(A) IN GENERAL.—The term 'covered*  
5 *voyage' means a voyage of—*

6 *"(i) a commercial passenger vessel*  
7 *which extends over 1 or more nights, or*

8 *"(ii) a commercial vessel transporting*  
9 *passengers engaged in gambling aboard the*  
10 *vessel beyond the territorial waters of the*  
11 *United States,*

12 *during which passengers embark or disembark the*  
13 *vessel in the United States. Such term shall not*  
14 *include any voyage on any vessel owned or oper-*  
15 *ated by the United States, a State, or any agency*  
16 *or subdivision thereof.*

17 *"(B) EXCEPTION FOR CERTAIN VOYAGES*  
18 *ON PASSENGER VESSELS.—The term 'covered*  
19 *voyage' shall not include a voyage of a passenger*  
20 *vessel of less than 12 hours between 2 ports in the*  
21 *United States.*

22 *"(2) PASSENGER VESSEL.—The term 'passenger*  
23 *vessel' means any vessel having berth or stateroom ac-*  
24 *commodations for more than 16 passengers."*



1       (b) *CLERICAL AMENDMENTS.*—*The table of subchap-*  
 2       *ters for chapter 36 is amended by inserting after the item*  
 3       *relating to subchapter A the following new item:*

      “*SUBCHAPTER B. Transportation by water.*”

4       (c) *EFFECTIVE DATE.*—

5           (1) *IN GENERAL.*—*The amendments made by*  
 6       *this section shall apply to voyages beginning after*  
 7       *December 31, 1989.*

8           (2) *NO DEPOSITS REQUIRED BEFORE APRIL 1,*  
 9       *1990.*—*No deposit of any tax imposed by subchapter B*  
 10       *of chapter 36 of the Internal Revenue Code of 1986,*  
 11       *as added by this section, shall be required to be made*  
 12       *before April 1, 1990.*

13   **SEC. 6504. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE**  
 14       **EFFECT ON JANUARY 1, 1990.**

15       (a) *TAX TO TAKE EFFECT ON JANUARY 1, 1990.*—

16           (1) *IN GENERAL.*—*Subsection (f) of section 4611*  
 17       *(relating to application of Oil Spill Liability Trust*  
 18       *Fund financing rate) is amended by striking para-*  
 19       *graphs (1) and (2) and by inserting the following:*

20           “(1) *IN GENERAL.*—*Except as provided in para-*  
 21       *graph (2), the Oil Spill Liability Trust Fund financ-*  
 22       *ing rate under subsection (c) shall apply after Decem-*  
 23       *ber 31, 1989, and before January 1, 1992.*”

24           (2) *CONFORMING AMENDMENT.*—*Paragraph (3)*  
 25       *of section 4611(f) is redesignated as paragraph (2) and*

1        *is amended by striking "the commencement date" in*  
 2        *subparagraph (A) and inserting "January 1, 1990,".*

3        *(b) 3-CENT RATE OF TAX.—Subparagraph (B) of sec-*  
 4        *tion 4611(c)(2) is amended by striking "1.3 cents" and in-*  
 5        *serting "3 cents".*

6        *(c) OIL SPILL LIABILITY TRUST FUND TO BE OP-*  
 7        *ERATING FUND.—*

8                *(1) IN GENERAL.—For purposes of sections*  
 9        *8032(d) and 8033(c) of the Omnibus Budget Reconcil-*  
 10        *iation Act of 1986, the commencement date is January*  
 11        *1, 1990.*

12                *(2) CONFORMING AMENDMENTS.—*

13                *(A) Section 9509 (relating to Oil Spill Li-*  
 14        *ability Trust Fund) is amended by adding at the*  
 15        *end thereof the following new subsection:*

16        *"(f) REFERENCES TO COMPREHENSIVE OIL POLLU-*  
 17        *TION LIABILITY AND COMPENSATION ACT.—For purposes*  
 18        *of this section, references to the Comprehensive Oil Pollution*  
 19        *Liability and Compensation Act shall be treated as refer-*  
 20        *ences to any law enacted before December 31, 1990, which is*  
 21        *substantially identical to subtitle E of title VI, or subtitle D*  
 22        *of title VIII, of H.R. 5300 of the 99th Congress as passed by*  
 23        *the House of Representatives or the Oil Pollution Liability*  
 24        *and Compensation Act of 1989, S. 686 of the 101st Con-*  
 25        *gress as passed by the Senate."*

1           (B) Paragraph (3) of section 9509(b) is  
 2           amended by striking “(on the 1st day the Oil  
 3           Spill Liability Trust Fund financing rate under  
 4           section 4611(c) applies)” and inserting “(on Jan-  
 5           uary 1, 1990)”.

6           (C) Paragraph (1)(A) of section 9509(c) is  
 7           amended by striking the last sentence.

8   **SEC. 6505. EXCISE TAX ON SALE OF CHEMICALS WHICH DE-**  
 9           **plete the ozone layer and of products**  
 10           **containing such chemicals.**

11       (a) *IN GENERAL.*—Chapter 38 (relating to environ-  
 12       mental taxes) is amended by adding at the end thereof the  
 13       following new subchapter:

14       **“Subchapter D—Ozone-Depleting Chemicals, Etc.**

          “Sec. 4681. Imposition of tax.

          “Sec. 4682. Definitions and special rules.

15       **“SEC. 4681. IMPOSITION OF TAX.**

16       “(a) *GENERAL RULE.*—There is hereby imposed a tax  
 17       on—

18               “(1) any ozone-depleting chemical sold or used by  
 19               the manufacturer, producer, or importer thereof, and

20               “(2) any imported taxable product sold or used by  
 21               the importer thereof.

22       “(b) *AMOUNT OF TAX.*—

23               “(1) *OZONE-DEPLETING CHEMICALS.*—

“(A) *IN GENERAL.*—The amount of the tax imposed by subsection (a) on each pound of ozone-depleting chemical shall be an amount equal to—

“(i) the base tax amount, multiplied by

“(ii) the ozone-depletion factor for such chemical.

“(B) *BASE TAX AMOUNT.*—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year is the amount determined under the following table for such calendar year:

<i>“Calendar year:</i>	<i>Base tax amount:</i>
1990.....	\$1.07
1991.....	1.12
1992.....	1.67
1993.....	3.15
1994 or thereafter .....	3.15.

“(2) *IMPORTED TAXABLE PRODUCT.*—

“(A) *IN GENERAL.*—The amount of the tax imposed by subsection (a) on any imported taxable product shall be the amount of tax which would have been imposed by subsection (a) on the ozone-depleting chemicals used as materials in the manufacture or production of such product if such ozone-depleting chemicals had been sold in the United States on the date of the sale of such imported taxable product.

1                   “(B) *CERTAIN RULES TO APPLY.*—*Rules*  
 2                   *similar to the rules of paragraphs (2) and (3) of*  
 3                   *section 4671(b) shall apply.*

4   **“SEC. 4682. DEFINITIONS AND SPECIAL RULES.**

5           “(a) *OZONE-DEPLETING CHEMICAL.*—*For purposes*  
 6   *of this subchapter—*

7                   “(1) *IN GENERAL.*—*The term ‘ozone-depleting*  
 8                   *chemical’ means any substance—*

9                           “(A) *which, at the time of the sale or use by*  
 10                   *the manufacturer, producer, or importer, is listed*  
 11                   *as an ozone-depleting chemical in the table con-*  
 12                   *tained in paragraph (2), and*

13                           “(B) *which is manufactured or produced in*  
 14                   *the United States or entered into the United*  
 15                   *States for consumption, use, or warehousing.*

16                   “(2) *OZONE-DEPLETING CHEMICALS.*—

<i>“Common name:</i>	<i>Chemical nomenclature:</i>
<i>CFC-11.....</i>	<i>trichlorofluoromethane</i>
<i>CFC-12.....</i>	<i>dichlorodifluoromethane</i>
<i>CFC-113.....</i>	<i>trichlorotrifluoroethane</i>
<i>CFC-114.....</i>	<i>1,2-dichloro-1,1,2,2-tetra-</i> <i>fluoroethane</i>
<i>CFC-115.....</i>	<i>chloropentafluoroethane</i>
<i>Halon-1211.....</i>	<i>bromochlorodifluoromethane</i>
<i>Halon-1301.....</i>	<i>bromotrifluoromethane</i>
<i>Halon-2402.....</i>	<i>dibromotetrafluoroethane.</i>

17           “(b) *OZONE-DEPLETION FACTOR.*—*For purposes of*  
 18   *this subchapter, the term ‘ozone-depletion factor’ means, with*  
 19   *respect to an ozone-depleting chemical, the factor assigned to*  
 20   *such chemical under the following table:*

<b>"Ozone-depleting chemical:</b>	<b>Ozone-depletion factor:</b>
<i>CFC-11</i> .....	1.0
<i>CFC-12</i> .....	1.0
<i>CFC-113</i> .....	0.8
<i>CFC-114</i> .....	1.0
<i>CFC-115</i> .....	0.6
<i>Halon-1211</i> .....	3.0
<i>Halon-1301</i> .....	10.0
<i>Halon-2402</i> .....	6.0.

1       “(c) *IMPORTED TAXABLE PRODUCT.*—For purposes of  
2 *this subchapter—*

3               “(1) *IN GENERAL.*—The term ‘imported taxable  
4 *product*’ means any product (other than an ozone-de-  
5 *pleting chemical*) entered into the United States for  
6 *consumption, use, or warehousing if any ozone-deplet-*  
7 *ing chemical was used as material in the manufacture*  
8 *or production of such product.*

9               “(2) *DE MINIMIS EXCEPTION.*—The term ‘im-  
10 *ported taxable product*’ shall not include any product  
11 *specified in regulations prescribed by the Secretary as*  
12 *using a de minimis amount of ozone-depleting chemi-*  
13 *cals as materials in the manufacture or production*  
14 *thereof. The preceding sentence shall not apply to any*  
15 *product in which any ozone-depleting chemical is used*  
16 *for purposes of refrigeration or air conditioning, creat-*  
17 *ing an aerosol or foam, or manufacturing electronic*  
18 *components.*

19       “(d) *EXCEPTIONS.*—

1           “(1) *RECYCLING*.—No tax shall be imposed by  
2           section 4681 on any ozone-depleting chemical which is  
3           diverted or recovered in the United States as part of a  
4           recycling process (and not as part of the original man-  
5           ufacturing or production process).

6           “(2) *USE IN FURTHER MANUFACTURE*.—

7           “(A) *IN GENERAL*.—No tax shall be im-  
8           posed by section 4681 on any ozone-depleting  
9           chemical which is used (and entirely consumed)  
10          by the manufacturer, producer, or importer thereof  
11          in the manufacture or production of any other  
12          chemical.

13          “(B) *CREDIT OR REFUND*.—Under regula-  
14          tions prescribed by the Secretary, if—

15               “(i) a tax under this subchapter was  
16               paid with respect to any ozone-depleting  
17               chemical, and

18               “(ii) such chemical was used (and en-  
19               tirely consumed) by any person in the manu-  
20               facture or production of any other chemical,  
21               then an amount equal to the tax so paid shall be  
22               allowed as a credit or refund (without interest) to  
23               such person in the same manner as if it were an  
24               overpayment of tax imposed by section 4681.

25          “(3) *EXPORTS*.—

1           “(A) *IN GENERAL.*—*Except as provided in*  
 2           *subparagraph (B), rules similar to the rules of*  
 3           *section 4662(e) (other than section*  
 4           *4662(e)(2)(A)(ii)(II)) shall apply for purposes of*  
 5           *this subchapter.*

6           “(B) *LIMIT ON BENEFIT.*—

7           “(i) *IN GENERAL.*—*The aggregate tax*  
 8           *benefit allowable under subparagraph (A)*  
 9           *with respect to ozone-depleting chemicals*  
 10           *manufactured or produced by any person*  
 11           *during a calendar year shall not exceed the*  
 12           *sum of—*

13           “(I) *the amount equal to the 1986*  
 14           *export percentage of the aggregate tax*  
 15           *imposed by this subchapter with respect*  
 16           *to ozone-depleting chemicals manufac-*  
 17           *tured or produced by such person*  
 18           *during such calendar year (other than*  
 19           *chemicals with respect to which sub-*  
 20           *clause (II) applies), and*

21           “(II) *the aggregate tax imposed by*  
 22           *this subchapter with respect to any ad-*  
 23           *ditional production allowance granted to*  
 24           *such person with respect to ozone-deplet-*  
 25           *ing chemicals manufactured or produced*



1                   by such person during such calendar  
2                   year by the Environmental Protection  
3                   Agency under 40 CFR Part 82 (as in  
4                   effect on September 14, 1989).

5                   “(ii) 1986 EXPORT PERCENTAGE.—A  
6                   person’s 1986 export percentage is the per-  
7                   centage equal to the ozone-depletion factor  
8                   adjusted pounds of ozone-depleting chemicals  
9                   manufactured or produced by such person  
10                  during 1986 which were exported during  
11                  1986, divided by the ozone-depletion factor  
12                  adjusted pounds of all ozone-depleting chemi-  
13                  cals manufactured or produced by such  
14                  person during 1986. The percentage deter-  
15                  mined under the preceding sentence shall be  
16                  based on data published by the Environmen-  
17                  tal Protection Agency.

18               “(e) OTHER DEFINITIONS.—For purposes of this sub-  
19 chapter—

20               “(1) IMPORTER.—The term ‘importer’ means the  
21               person entering the article for consumption, use, or  
22               warehousing.

23               “(2) UNITED STATES.—The term ‘United States’  
24               has the meaning given such term by section  
25               4612(a)(4).

1       “(f) *SPECIAL RULES.*—

2               “(1) *FRACTIONAL PARTS OF A POUND.*—*In the*  
3       *case of a fraction of a pound, the tax imposed by this*  
4       *subchapter shall be the same fraction of the amount of*  
5       *such tax imposed on a whole pound.*

6               “(2) *DISPOSITION OF REVENUES FROM PUERTO*  
7       *RICO AND THE VIRGIN ISLANDS.*—*The provisions of*  
8       *subsections (a)(3) and (b)(3) of section 7652 shall not*  
9       *apply to any tax imposed by this subchapter.*

10       “(g) *PHASE-IN OF TAX ON CERTAIN SUBSTANCES.*—

11               “(1) *TREATMENT FOR 1990.*—

12               “(A) *HALONS.*—*The term ‘ozone-depleting*  
13       *chemical’ shall not include halon-1211, halon-*  
14       *1301, or halon-2402 with respect to any sale or*  
15       *use during 1990.*

16               “(B) *CHEMICALS USED IN RIGID FOAM IN-*  
17       *SULATION.*—*No tax shall be imposed by section*  
18       *4681—*

19               “(i) *on the use during 1990 of any sub-*  
20       *stance in the manufacture of rigid foam in-*  
21       *sulation,*

22               “(ii) *on the sale during 1990 by the*  
23       *manufacturer, producer, or importer of any*  
24       *substance—*

1                   “(I) for use by the purchaser in  
2                   the manufacture of rigid foam insula-  
3                   tion, or

4                   “(II) for resale by the purchaser to  
5                   a second purchaser for such use by the  
6                   second purchaser, or

7                   “(iii) on the sale or use during 1990 by  
8                   the importer of any rigid foam insulation.

9                   Clause (ii) shall apply only if the manufacturer, pro-  
10                  ducer, and importer, and the 1st and 2d purchasers (if  
11                  any) meet such registration requirements as may be  
12                  prescribed by the Secretary.

13               “(2) TREATMENT FOR 1991, 1992, AND 1993.—

14               “(A) HALONS.—The tax imposed by section  
15               4681 during 1991, 1992, or 1993 by reason of  
16               the treatment of halon-1211, halon-1301, and  
17               halon-2402 as ozone-depleting chemicals shall be  
18               the applicable percentage (determined under the  
19               following table) of the amount of such tax which  
20               would (but for this subparagraph) be imposed.

“In the case of:	The applicable percentage is:		
	For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
<i>Halon-1211</i> .....	7	5	3
<i>Halon-1301</i> .....	2	1	1

<i>"In the case of:</i>	<i>The applicable percentage is:</i>		
	<i>For sales or use during 1991</i>	<i>For sales or use during 1992</i>	<i>For sales or use during 1993</i>
<i>Halon-2402.....</i>	<i>4</i>	<i>2</i>	<i>1.</i>

1                   “(B) *CHEMICALS USED IN RIGID FOAM IN-*  
2                   *SULATION.—In the case of a sale or use during*  
3                   *1991, 1992, or 1993 on which no tax would have*  
4                   *been imposed by reason of paragraph (1)(B) had*  
5                   *such sale or use occurred during 1990, the tax*  
6                   *imposed by section 4681 shall be the applicable*  
7                   *percentage (determined in accordance with the fol-*  
8                   *lowing table) of the amount of such tax which*  
9                   *would (but for this subparagraph) be imposed.*

<i>"In the case of sales or use during:</i>	<i>The applicable percentage is:</i>
<i>1991 .....</i>	<i>23</i>
<i>1992 .....</i>	<i>16</i>
<i>1993 .....</i>	<i>8.</i>

10                   “(3) *OVERPAYMENTS WITH RESPECT TO*  
11                   *CHEMICALS USED IN RIGID FOAM INSULATION.—If*  
12                   *any substance on which tax was paid under this sub-*  
13                   *chapter is used during 1990, 1991, 1992, or 1993 by*  
14                   *any person in the manufacture of rigid foam insula-*  
15                   *tion, credit or refund (without interest) shall be allowed*  
16                   *to such person an amount equal to the excess of—*

17                   “(A) *the tax paid under this subchapter on*  
18                   *such substance, over*

1           “(B) *the tax (if any) which would be im-*  
2           *posed by section 4681 if such substance were used*  
3           *for such use by the manufacturer, producer, or*  
4           *importer thereof on the date of its use by such*  
5           *person.*

6           “(h) *IMPOSITION OF FLOOR STOCKS TAXES.—*

7           “(1) *JANUARY 1, 1990, TAX.—On any ozone-de-*  
8           *pleting chemical which on January 1, 1990, is held by*  
9           *any person (other than the manufacturer, producer, or*  
10          *importer thereof) for sale or for use in further manu-*  
11          *facture, there is hereby imposed a floor stocks tax in*  
12          *an amount equal to the tax which would be imposed by*  
13          *section 4681 on such chemical if the sale of such chem-*  
14          *ical by the manufacturer, producer, or importer thereof*  
15          *had occurred during 1990.*

16          “(2) *OTHER TAX-INCREASE DATES.—*

17          “(A) *IN GENERAL.—If, on any tax-increase*  
18          *date, any ozone-depleting chemical is held by any*  
19          *person (other than the manufacturer, producer, or*  
20          *importer thereof) for sale or for use in further*  
21          *manufacture, there is hereby imposed a floor*  
22          *stocks tax.*

23          “(B) *AMOUNT OF TAX.—The amount of the*  
24          *tax imposed by subparagraph (A) shall be the*  
25          *excess (if any) of—*

1                   “(i) the tax which would be imposed  
2                   under section 4681 on such substance if the  
3                   sale of such chemical by the manufacturer,  
4                   producer, or importer thereof had occurred on  
5                   the tax-increase date, over

6                   “(ii) the prior tax (if any) imposed by  
7                   this subchapter on such substance.

8                   “(C) TAX-INCREASE DATE.—For purposes  
9                   of this paragraph, the term ‘tax-increase date’  
10                  means January 1 of 1991, 1992, 1993, and  
11                  1994.

12                  “(3) DUE DATE.—The taxes imposed by this sub-  
13                  section on January 1 of any calendar year shall be  
14                  paid on or before April 1 of such year.

15                  “(4) APPLICATION OF OTHER LAWS.—All other  
16                  provisions of law, including penalties, applicable with  
17                  respect to the taxes imposed by section 4681 shall  
18                  apply to the floor stocks taxes imposed by this sub-  
19                  section.”

20                  (b) CLERICAL AMENDMENT.—The table of subchapters  
21                  for chapter 38 is amended by adding at the end thereof the  
22                  following new item:

                  “SUBCHAPTER D. Ozone-depleting chemicals, etc.”

23                  (c) EFFECTIVE DATE.—

24                  (1) IN GENERAL.—The amendments made by  
25                  this section shall take effect on January 1, 1990.

1           (2) *NO DEPOSITS REQUIRED BEFORE APRIL 1,*  
2           *1990.—No deposit of any tax imposed by subchapter D*  
3           *of chapter 38 of the Internal Revenue Code of 1986,*  
4           *as added by this section, shall be required to be made*  
5           *before April 1, 1990.*

6   **SEC. 6506. ACCELERATION OF DEPOSIT REQUIREMENTS FOR**  
7           **GASOLINE EXCISE TAX.**

8           (a) *IN GENERAL.—Section 6302 (relating to mode or*  
9           *time of collection), as amended by section 6504, is further*  
10          *amended by redesignating subsection (f) as subsection (g)*  
11          *and by inserting after subsection (e) the following new sub-*  
12          *section:*

13          “(f) *FREQUENCY AND TIME FOR DEPOSIT OF TAXES*  
14          *ON GASOLINE.—*

15               “(1) *GENERAL RULE.—Any person whose liabil-*  
16               *ity for tax under section 4081 exceeds \$100 in any*  
17               *month of a calendar quarter shall make deposits of*  
18               *such tax with respect to tax periods in any month in*  
19               *the succeeding quarter as determined under paragraph*  
20               *(2).*

21               “(2) *TIME OF DEPOSIT.—*

22                       “(A) *IN GENERAL.—Any deposit of tax re-*  
23                       *quired with respect to any tax period under para-*  
24                       *graph (1) shall be payable on or before—*

1                   “(i) the 9th day after the close of the  
2                   tax period, or

3                   “(ii) if such deposit is made by wire  
4                   transfer to any government depository au-  
5                   thorized under section 6302, the 14th day  
6                   after the close of the tax period.

7                   “(B) TAX PERIODS.—Each month shall in-  
8                   clude 4 tax periods ending on the 7th, 14th, 21st,  
9                   and last days of such month.

10                  “(3) SPECIAL RULE WHERE 9TH OR 14TH DAY  
11                  FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If,  
12                  but for this paragraph, the due date under paragraph  
13                  (2) would fall on a Saturday, Sunday, or holiday in  
14                  the District of Columbia, such due date shall be  
15                  deemed to be the immediately preceding day which is  
16                  not a Saturday, Sunday, or such a holiday.”

17                  (b) EFFECTIVE DATE; SPECIAL RULE.—

18                   (1) IN GENERAL.—The amendment made by sub-  
19                   section (a) shall apply to payments of taxes for tax pe-  
20                   riods beginning after December 31, 1989.

21                   (2) SPECIAL RULE.—Notwithstanding section  
22                   6302(f) of the Internal Revenue Code of 1986, as  
23                   added by subsection (a), in applying such section in  
24                   September 1990, the due date for the third tax period  
25                   of such month with respect to 9-day payers and the due



date for the second tax period of such month with respect to 14-day payers shall be September 27, 1990.

### ***Subtitle E—Miscellaneous Provisions***

#### ***PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS***

##### ***SEC. 6601. LIKE KIND EXCHANGES BETWEEN RELATED PERSONS.***

(a) *SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS, ETC.*—Section 1031 (relating to exchange of property held for productive use or investment) is amended by adding at the end thereof the following new subsections:

##### ***“(f) SPECIAL RULES FOR EXCHANGES BETWEEN RELATED PERSONS.—***

***“(1) IN GENERAL.—If—***

***“(A) a taxpayer exchanges property with a related person,***

***“(B) there is nonrecognition of gain or loss to the taxpayer under this section with respect to the exchange of such property (determined without regard to this subsection), and***

***“(C) before the date 2 years after the date of the last transfer which was part of such exchange—***

1                   “(i) the related person disposes of such  
2                   property, or

3                   “(ii) the taxpayer disposes of the prop-  
4                   erty received in the exchange from the related  
5                   person which was of like kind to the property  
6                   transferred by the taxpayer,

7                   there shall be no nonrecognition of gain or loss under  
8                   this section to the taxpayer with respect to such ex-  
9                   change; except that any gain or loss recognized by the  
10                  taxpayer by reason of this subsection shall be taken  
11                  into account as of the date on which the disposition re-  
12                  ferred to in subparagraph. (C) occurs.

13                  “(2) CERTAIN DISPOSITIONS NOT TAKEN INTO  
14                  ACCOUNT.—For purposes of paragraph (1)(C), there  
15                  shall not be taken into account any disposition—

16                  “(A) by reason of the death of the taxpayer,

17                  “(B) in a compulsory or involuntary conven-  
18                  tion (within the meaning of section 1033) if the  
19                  exchange occurred before the threat or imminence  
20                  of such conversion, or

21                  “(C) with respect to which it is established to  
22                  the satisfaction of the Secretary that neither the  
23                  exchange nor such disposition had as one of its  
24                  principal purposes the avoidance of Federal  
25                  income tax.

1           “(3) *RELATED PERSON*.—For purposes of this  
2       subsection, the term ‘related person’ means any person  
3       bearing a relationship to the taxpayer described in sec-  
4       tion 267(b).

5           “(4) *TREATMENT OF CERTAIN TRANSACTIONS*.—  
6       This section shall not apply to any exchange which is  
7       part of a transaction (or series of transactions) struc-  
8       tured to avoid the purposes of this subsection.

9           “(g) *SPECIAL RULE WHERE SUBSTANTIAL DIMINU-*  
10      *TION OF RISK*.—

11           “(1) *IN GENERAL*.—If paragraph (2) applies to  
12      any property for any period, the running of the period  
13      set forth in subsection (f)(1)(C) with respect to such  
14      property shall be suspended during such period.

15           “(2) *PROPERTY TO WHICH SUBSECTION AP-*  
16      *PLIES*.—This paragraph shall apply to any property  
17      for any period during which the holder’s risk of loss  
18      with respect to the property is substantially diminished  
19      by—

20           “(A) the holding of a put with respect to  
21      such property,

22           “(B) the holding by another person of a right  
23      to acquire such property, or

24           “(C) a short sale or any other transaction.

1       “(h) *REGULATIONS.*—*The Secretary shall prescribe*  
 2 *such regulations as may be appropriate to carry out the pur-*  
 3 *poses of this section, including such regulations as may be*  
 4 *necessary to prevent the avoidance of the purposes of this*  
 5 *section.*”

6       (b) *EFFECTIVE DATE.*—

7           (1) *IN GENERAL.*—*Except as provided in para-*  
 8 *graph (2), the amendments made by this section shall*  
 9 *apply to transfers after July 10, 1989, in taxable*  
 10 *years ending after such date.*

11          (2) *BINDING CONTRACT.*—*The amendments*  
 12 *made by this section shall not apply to any transfer*  
 13 *pursuant to a written binding contract in effect on*  
 14 *July 10, 1989, and at all times thereafter before the*  
 15 *transfer.*

## 16           **PART II—ACCOUNTING PROVISIONS**

### 17   **SEC. 6621. CHANGES IN TREATMENT OF TRANSFERS OF FRAN-** 18           **CHISES, TRADEMARKS, AND TRADE NAMES.**

19          (a) *CONTINGENT PAYMENTS.*—*Paragraph (1) of*  
 20 *section 1253(d) (relating to treatment of payments by trans-*  
 21 *ferree) is amended to read as follows:*

22           “(1) *CONTINGENT SERIAL PAYMENTS.*—

23                   “(A) *IN GENERAL.*—*Any amount described*  
 24 *in subparagraph (B) which is paid or incurred*  
 25 *during the taxable year on account of a transfer,*

1        *sale, or other disposition of a franchise, trade-*  
 2        *mark, or trade name shall be allowed as a deduc-*  
 3        *tion under section 162(a) (relating to trade or*  
 4        *business expenses).*

5                *“(B) AMOUNTS TO WHICH PARAGRAPH AP-*  
 6        *PLIES.—An amount is described in this subpara-*  
 7        *graph if it—*

8                        *“(i) is contingent on the productivity,*  
 9                        *use, or disposition of the franchise, trade-*  
 10                       *mark, or trade name, and*

11                       *“(ii) is paid as part of a series of pay-*  
 12                       *ments—*

13                        *“(I) which are payable not less*  
 14                        *frequently than annually throughout the*  
 15                        *entire term of the transfer agreement,*  
 16                        *and*

17                        *“(II) which are substantially*  
 18                        *equal in amount (or payable under a*  
 19                        *fixed formula).”*

20        *(b) \$100,000 LIMITATION ON CERTAIN PAYMENTS.—*

21                *(1) IN GENERAL.—Paragraph (2) of section*  
 22        *1253(d) is amended by adding at the end thereof the*  
 23        *following new subparagraph:*

24                        *“(B) \$100,000 LIMITATION ON DEDUCT-*  
 25        *IBILITY OF PRINCIPAL SUM.—Subparagraph (A)*

1        *shall not apply if the principal sum referred to in*  
 2        *such subparagraph exceeds \$100,000. For pur-*  
 3        *poses of the preceding sentence, all payments*  
 4        *which are part of the same transaction (or a series*  
 5        *of related transactions) shall be taken into account*  
 6        *as payments with respect to each such transac-*  
 7        *tion."*

8        (2) *CONFORMING AMENDMENTS.—Paragraph (2)*  
 9        *of section 1253(d) is amended—*

10            (A) *by striking all that precedes "If" and in-*  
 11            *serting:*

12            "(2) *CERTAIN PAYMENTS IN DISCHARGE OF*  
 13            *PRINCIPAL SUMS.—*

14            "(A) *IN GENERAL.—*", and

15            (B) *by redesignating subparagraphs (A),*  
 16            (B), and (C) as clauses (i), (ii), and (iii), respec-  
 17            *tively.*

18        (c) *OTHER PAYMENTS, ETC.—Section 1253(d) is*  
 19        *amended by adding at the end thereof the following new para-*  
 20        *graphs:*

21            "(3) *OTHER PAYMENTS.—*

22            "(A) *IN GENERAL.—Any amount paid or*  
 23            *incurred on account of a transfer, sale, or other*  
 24            *disposition of a franchise, trademark, or trade*  
 25            *name to which paragraph (1) or (2) does not*

1        *apply shall be treated as an amount chargeable to*  
 2        *capital account.*

3                *“(B) ELECTION TO RECOVER AMOUNTS*  
 4        *OVER 20 YEARS.—*

5                *“(i) IN GENERAL.—If the taxpayer*  
 6        *elects the application of this subparagraph,*  
 7        *an amount chargeable to capital account—*

8                *“(I) to which paragraph (1) would*  
 9        *apply but for subparagraph (B)(ii)*  
 10        *thereof, or*

11                *“(II) to which paragraph (2)*  
 12        *would apply but for subparagraph (B)*  
 13        *thereof,*  
 14        *shall be allowed as a deduction ratably over*  
 15        *the 20-year period beginning with the tax-*  
 16        *able year in which the transfer occurs.*

17                *“(ii) CONSISTENT TREATMENT.—An*  
 18        *election under clause (i) shall apply to all*  
 19        *amounts which are part of the same transac-*  
 20        *tion (or a series of related transactions).*

21                *“(4) RENEWALS, ETC.—For purposes of deter-*  
 22        *mining the term of a transfer agreement or any period*  
 23        *of amortization under this subsection, there shall be*  
 24        *taken into account all renewal options (and any other*

1     *period for which the parties reasonably expect the*  
 2     *agreement to be renewed)."*

3     ***(b) TECHNICAL AMENDMENTS.—***

4             ***(1) DEPRECIATION ALLOWABLE.—****Subsection*  
 5     *(r) of section 167 is hereby repealed.*

6             ***(2) DEDUCTION SUBJECT TO RECAPTURE.—***

7                 ***(A) Subparagraph (C) of section 1245(a)(2)***  
 8             *is amended by striking "or 193" and inserting*  
 9             *"193, or 1253(d) (2) or (3)".*

10                ***(B) The material preceding subparagraph***  
 11             ***(A) of section 1245(a)(3) is amended by striking***  
 12             *"section 185" and inserting "section 185 or*  
 13             *1253(d) (2) or (3)".*

14            ***(c) EFFECTIVE DATE.—***

15                ***(1) IN GENERAL.—****The amendments made by*  
 16     *this section shall apply to transfers after October 2,*  
 17     *1989.*

18                ***(2) BINDING CONTRACT.—****The amendments*  
 19     *made by this section shall not apply to any transfer*  
 20     *pursuant to a written binding contract in effect on Oc-*  
 21     *tober 2, 1989, and at all times thereafter before the*  
 22     *transfer.*



1 **SEC. 6622. RESERVES OF MUTUAL SAVINGS BANKS AND OTHER**  
 2 **THRIFT INSTITUTIONS.**

3 (a) *IN GENERAL.*—Section 593 (relating to reserves for  
 4 losses on loans) is amended by adding at the end thereof the  
 5 following new subsection:

6 “(f) *ORGANIZATIONS FAILING 60-PERCENT ASSET*  
 7 *TEST.*—

8 “(1) *GENERAL RULE.*—In the case of any tax-  
 9 payer described in subsection (a)(1) which ceases to be  
 10 so described or which fails to meet the requirements of  
 11 subsection (a)(2)—

12 “(A) except as provided in this subsection,  
 13 this section shall not apply for the disqualification  
 14 year or any succeeding taxable year, and

15 “(B) if the taxpayer maintained any reserve  
 16 for bad debts for its last taxable year before the  
 17 disqualification year, the rules of paragraph  
 18 (3)(A) of section 585(c) (without regard to para-  
 19 graph (4) thereof) shall apply for the disqualifica-  
 20 tion year with respect to the portion of such re-  
 21 serve allocable to additions to such reserve under  
 22 the experience method of subsection (b)(3).

23 “(2) *SUBSEQUENT LOSSES.*—If paragraph (1)  
 24 applies, the taxpayer shall continue to maintain its re-  
 25 maining reserves for loans held by the taxpayer as of  
 26 the 1st day of the disqualification year and—

1           (A) the rules of subsection (e) shall continue  
2           to apply to such reserves, and

3           (B) the taxpayer shall charge against such  
4           reserves for any taxable year losses resulting from  
5           loans held by the taxpayer on such 1st day to the  
6           extent that the cumulative losses from such loans  
7           as of the close of such taxable year (reduced by  
8           recoveries) does not exceed the cumulative amount  
9           included in gross income by reason of paragraph  
10          (1)(B) as of the close of such taxable year.

11          “(3) *DISQUALIFICATION YEAR.*—The term ‘dis-  
12          qualification year’ means the 1st taxable year ending  
13          after the date of the enactment of this subsection for  
14          which a taxpayer described in subsection (a)(1) ceases  
15          to be so described or fails to meet the requirements of  
16          subsection (a)(2).

17          “(4) *ELECTION IRREVOCABLE.*—An election  
18          under paragraph (1), once made, is irrevocable.”

19          (b) *EFFECTIVE DATE.*—The amendments made by this  
20          section shall apply to taxable years ending after the date of  
21          the enactment of this Act.

1           **PART III—EMPLOYMENT TAX PROVISIONS**

2   **SEC. 6631. TREATMENT OF AGRICULTURAL WORKERS UNDER**  
 3                   **WAGE WITHHOLDING.**

4           (a) *IN GENERAL.*—Paragraph (2) of section 3401(a)  
 5   (defining wages) is amended to read as follows:

6                   “(2) for agricultural labor (as defined in section  
 7   3121(g)) unless the remuneration paid for such labor  
 8   is wages (as defined in section 3121(a)); or”.

9           (b) *CREW LEADER RULES TO APPLY.*—Section 3401  
 10   is amended by adding at the end thereof the following new  
 11   subsection:

12                   “(h) *CREW LEADER RULES TO APPLY.*—Rules simi-  
 13   lar to the rules of section 3121(o) shall apply for purposes of  
 14   this chapter.”

15           (c) *EFFECTIVE DATE.*—The amendments made by this  
 16   section shall apply to remuneration paid after December 31,  
 17   1989.

18   **SEC. 6632. ACCELERATION OF DEPOSIT REQUIREMENTS.**

19           (a) *IN GENERAL.*—Section 6302 (relating to mode or  
 20   time for collection) is amended by redesignating subsection  
 21   (e) as subsection (f) and by inserting after subsection (d) the  
 22   following new subsection:

23                   “(e) *DEPOSITS OF SOCIAL SECURITY TAXES AND*  
 24   *WITHHELD INCOME TAXES.*—

25                   “(1) *IN GENERAL.*—If, under regulations pre-  
 26   scribed by the Secretary, a person is required to make

1        *deposits of taxes imposed by chapters 21 and 24 on the*  
 2        *basis of eighth-month periods, such person shall, for the*  
 3        *year specified in paragraph (2), make deposits of such*  
 4        *taxes on the applicable banking day after any day on*  
 5        *which such person has an amount equal to or exceed-*  
 6        *ing the threshold amount of such taxes for deposit.*  
 7        *Rules similar to the rules of section 5061(e)(3) shall*  
 8        *apply to the threshold amount in the preceding sen-*  
 9        *tence.*

10            *“(2) SPECIFIED YEARS.—For purposes of para-*  
 11            *graph (1)—*

<i>“In the case of:</i>	<i>“The applicable banking day is:</i>
1990.....	1st
1991.....	3rd
1992.....	3rd
1993.....	1st
1994.....	2d.

<i>“In the case of:</i>	<i>“The threshold amount is:</i>
1990.....	\$1,950,000
1991.....	\$1,500,000
1992.....	\$1,600,000
1993.....	\$1,700,000
1994.....	\$1,775,000.”

12        *(b) EFFECTIVE DATE.—*

13            *(1) GENERAL RULE.—Except as provided in*  
 14        *paragraph (2), the amendment made by subsection (a)*  
 15        *shall apply to amounts required to be deposited after*  
 16        *July 31, 1990.*

17            *(2) RULE FOR 1995 AND THEREAFTER.—For cal-*  
 18        *endar year 1995 and thereafter, the Secretary of the*

1        *Treasury shall prescribe regulations with respect to the*  
 2        *date on which deposits of such taxes shall be made in*  
 3        *order to minimize the unevenness in the revenue effects*  
 4        *of the amendment made by subsection (a).*

5                    **PART IV—OTHER PROVISIONS**

6    **SEC. 6681. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS**  
 7                    **OF CONTRIBUTED PROPERTY.**

8        *(a) GENERAL RULE.—Subsection (c) of section 704*  
 9        *(relating to contributed property) is amended to read as*  
 10       *follows:*

11            *“(c) CONTRIBUTED PROPERTY.—*

12                    *“(1) IN GENERAL.—Under regulations prescribed*  
 13        *by the Secretary—*

14                    *“(A) income, gain, loss, and deduction with*  
 15        *respect to property contributed to the partnership*  
 16        *by a partner shall be shared among the partners*  
 17        *so as to take account of the variation between the*  
 18        *basis of the property to the partnership and its*  
 19        *fair market value at the time of contribution, and*

20                    *“(B) if any property so contributed is dis-*  
 21        *tributed by the partnership (other than to the*  
 22        *contributing partner) within 3 years of being*  
 23        *contributed—*

24                    *“(i) the contributing partner shall be*  
 25        *treated as recognizing gain or loss (as the*

1            *case may be) from the sale of such property*  
 2            *in an amount equal to the gain or loss which*  
 3            *would have been allocated to such partner*  
 4            *under subparagraph (A) by reason of the*  
 5            *variation described in subparagraph (A) if*  
 6            *the property had been sold at its fair market*  
 7            *value at the time of the distribution,*

8            *“(ii) the character of such gain or loss*  
 9            *shall be determined by reference to the char-*  
 10           *acter of the gain or loss which would have*  
 11           *resulted if such property had been sold by*  
 12           *the partnership to the distributee, and*

13           *“(iii) appropriate adjustments shall be*  
 14           *made to the adjusted basis of the contributing*  
 15           *partner’s interest in the partnership and to*  
 16           *the adjusted basis of the property distributed*  
 17           *to reflect any gain or loss recognized under*  
 18           *this subparagraph.*

19           *“(2) SPECIAL RULE FOR DISTRIBUTIONS*  
 20           *WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED*  
 21           *OUTSIDE PARTNERSHIPS.—Under regulations pre-*  
 22           *scribed by the Secretary, if—*

23           *“(A) property contributed by a partner (here-*  
 24           *inafter referred to as the ‘contributing partner’) is*

1           *distributed by the partnership to another partner,*  
2           *and*

3           “(B) other property of a like kind (within  
4           *the meaning of section 1031) is distributed by the*  
5           *partnership to the contributing partner not later*  
6           *than the earlier of—*

7                     “(i) the 180th day after the date of the  
8                     *distribution described in subparagraph (A),*  
9                     *or*

10                    “(ii) the due date (determined with  
11                    *regard to extensions) for the contributing*  
12                    *partner’s return of the tax imposed by this*  
13                    *chapter for the taxable year in which the dis-*  
14                    *tribution described in subparagraph (A)*  
15                    *occurs,*

16           *then to the extent of the value of the property described*  
17           *in subparagraph (B), paragraph (1)(B) shall be ap-*  
18           *plied as if the contributing partner had contributed to*  
19           *the partnership the property described in subparagraph*  
20           *(B).*

21           “(3) *OTHER RULES.—Under regulations pre-*  
22           *scribed by the Secretary, rules similar to the rules of*  
23           *paragraph (1) shall apply to contributions by a partner*  
24           *(using the cash receipts and disbursements method of*  
25           *accounting) of accounts payable and other accrued but*

1       unpaid items. Any reference in paragraph (1) or (2) to  
 2       the contributing partner shall be treated as including a  
 3       reference to any successor of such partner.”

4       (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 5       section (a) shall apply in the case of property contributed to  
 6       the partnership after October 3, 1989, in taxable years  
 7       ending after such date.

8       **SEC. 6682. ELIMINATION OF RETROACTIVE CERTIFICATION OF**  
 9                       **EMPLOYEES FOR WORK INCENTIVE JOBS**  
 10                      **CREDIT.**

11       (a) *IN GENERAL.*—So much of subparagraph (A) of  
 12       section 50B(h)(1) of the Internal Revenue Code of 1954 (as  
 13       in effect for taxable years beginning before January 1, 1982)  
 14       as precedes clause (i) thereof is amended to read as follows:

15                   “(A) who has been certified (or for whom a  
 16                   written request for certification has been made) on  
 17                   or before the day the individual began work for  
 18                   the taxpayer by the Secretary of Labor or by the  
 19                   appropriate agency of State or local government  
 20                   as—”.

21       (b) *EFFECTIVE DATE.*— The amendment made by sub-  
 22       section (a) shall apply for purposes of credits first claimed  
 23       after March 11, 1987.



1     ***Subtitle F—Coordination With Budget***  
 2                                     ***Act***

3     ***SEC. 6701. COORDINATION WITH BUDGET ACT.***

4         *Any transfer of outlays, receipts, or revenues pursuant*  
 5     *to this title (including section 6209, 6507, 6631, or 6632) is*  
 6     *a necessary (but secondary) result of a significant policy*  
 7     *change for purposes of section 202 of the joint resolution enti-*  
 8     *tled “Increasing the statutory limit on the public debt”*  
 9     *(Public Law 100–119), approved September 29, 1987.*

10           ***TITLE VII—CIVIL SERVICE AND***  
 11           ***POSTAL SERVICE PROGRAMS***

12     ***SEC. 7001. BUDGETARY TREATMENT OF THE POSTAL SERVICE***  
 13                                     ***FUND.***

14         ***(a) TREATMENT OF THE POSTAL SERVICE FUND.—***  
 15     ***(1) Chapter 20 of title 39, United States Code, is amended***  
 16     ***by inserting after section 2009 the following new section:***

17     ***“§ 2009a. Budgetary treatment of the Postal Service Fund***

18         ***“Notwithstanding any other provision of law, the re-***  
 19     ***ceipts and disbursements of the Postal Service Fund, includ-***  
 20     ***ing disbursements for administrative expenses incurred in***  
 21     ***connection with the Fund—***

22                 ***“(1) shall not be included in the totals of—***

23                         ***“(A) the budget of the United States Gov-***  
 24                         ***ernment as submitted by the President; or***

1           “(B) the congressional budget (including al-  
 2           locations of budget authority and outlays provided  
 3           therein);

4           “(2) shall be exempt from any general budget lim-  
 5           itation imposed by statute on expenditures and net  
 6           lending (budget outlays) of the United States Govern-  
 7           ment; and

8           “(3) shall be exempt from any order issued under  
 9           part C of the Balanced Budget and Emergency Deficit  
 10          Control Act of 1985 (2 U.S.C. 901 et seq.), and shall  
 11          not be counted for purposes of calculating the deficit  
 12          under section 3(6) of the Congressional Budget and  
 13          Impoundment Control Act of 1974 (2 U.S.C. 622(6))  
 14          for purposes of comparison with the maximum deficit  
 15          amount under the Balanced Budget and Emergency  
 16          Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) nor  
 17          counted in calculating the excess deficit for purposes of  
 18          sections 251 and 252 of the Balanced Budget and  
 19          Emergency Deficit Control Act of 1985 (2 U.S.C. 901  
 20          and 902), for any fiscal year.”

21          (2) The table of sections for chapter 20 of title 39,  
 22          United States Code, is amended by inserting after the  
 23          item relating to section 2009 the following:

“2009a. Budgetary treatment of the Postal Service Fund.”

24          (b) CONSTRUCTION.—Nothing in any amendment  
 25          made by subsection (a) shall be considered to diminish the

1 *oversight authority of the Congress under law, rule, or regu-*  
 2 *lation with respect to the budget and operations of the United*  
 3 *States Postal Service.*

4 (c) *APPLICABILITY.*—*The amendments made by this*  
 5 *section shall apply with respect to budgets for fiscal years*  
 6 *beginning after September 30, 1989.*

7 **SEC. 7002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR**  
 8 **CERTAIN POSTAL SERVICE ANNUITANTS AND**  
 9 **SURVIVOR ANNUITANTS.**

10 (a) *DEPOSIT OF CERTAIN FUNDS IN FISCAL YEAR*  
 11 *1990.*—*From the funds available to the United States Postal*  
 12 *Service in fiscal year 1990, the Postal Service shall deposit*  
 13 *into the Civil Service Retirement Fund established under*  
 14 *section 8348 of title 5, United States Code, an amount equal*  
 15 *to \$400,000,000 at the end of fiscal year 1990. Such pay-*  
 16 *ment shall be considered as a prior year's loss for purposes of*  
 17 *adjusting postal rates under part IV of title 39, United*  
 18 *States Code.*

19 (b) *UNFUNDED LIABILITY OF POSTAL SERVICE.*—  
 20 *Section 8348 of title 5, United States Code, is amended by*  
 21 *adding at the end thereof the following new subsection:*

22 “(m)(1) *Notwithstanding any other provision of law, the*  
 23 *United States Postal Service shall be liable for that portion*  
 24 *of any estimated increase in the unfunded liability of the*  
 25 *Fund which is attributable to any benefits payable from the*

1 *Fund to former employees of the Postal Service who first*  
2 *become annuitants by reason of separation from the Postal*  
3 *Service on or after October 1, 1990, or to their survivors, or*  
4 *to the survivors of individuals who die on or after October 1,*  
5 *1990, while employed by the Postal Service, when the in-*  
6 *crease results from a cost-of-living adjustment under section*  
7 *8340 of this title.*

8       “(2) *The estimated increase in the unfunded liability*  
9 *referred to in paragraph (1) of this subsection shall be deter-*  
10 *mined by the Office after consultation with the Postal Serv-*  
11 *ice. The Postal Service shall pay the amount so determined*  
12 *to the Office in 15 equal annual installments with interest*  
13 *computed at the rate used in the most recent valuation of the*  
14 *Civil Service Retirement System, with the first payment*  
15 *thereof due at the end of the fiscal year in which the cost-of-*  
16 *living adjustment with respect to which the payment relates*  
17 *becomes effective.*

18       “(3) *In determining the amount for which the Postal*  
19 *Service is liable under this subsection in cases in which the*  
20 *benefits involved are based on service of an individual who*  
21 *performed 1 or more forms of service besides employment*  
22 *with the Postal Service, the amount of the Postal Service's*  
23 *liability shall be prorated to reflect only that portion of total*  
24 *service which is attributable to employment with the Postal*  
25 *Service.”.*

1 **SEC. 7003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SUR-**  
 2 **VIVORS OF EMPLOYEES AND FORMER EMPLOY-**  
 3 **EES OF THE POSTAL SERVICE.**

4 (a) *GENERALLY.*—Section 8906(g)(2) of title 5,  
 5 United States Code, is amended by inserting “or for a survi-  
 6 vor of such an individual or of an individual who died on or  
 7 after October 1, 1986, while employed by the United States  
 8 Postal Service,” after “1986,”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 10 section (a) shall take effect on October 1, 1989, and shall  
 11 apply with respect to amounts payable for periods beginning  
 12 on or after that date.

13 **SEC. 7004. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT**  
 14 **FOR CERTAIN INDIVIDUALS ELECTING ALTERNA-**  
 15 **TIVE FORMS OF ANNUITIES.**

16 (a) *IN GENERAL.*—Notwithstanding any other provi-  
 17 sion of law, and except as provided in subsection (c), any  
 18 lump-sum credit payable to an employee or Member pursuant  
 19 to the election of an alternative form of annuity by such em-  
 20 ployee or Member under section 8343a or section 8420a of  
 21 title 5, United States Code, shall be paid in accordance with  
 22 the schedule under subsection (b) (instead of the schedule  
 23 which would otherwise apply), if the commencement date of  
 24 the annuity payable to such employee or Member occurs after  
 25 September 30, 1989, and before October 1, 1990.

1       (b) *SCHEDULE OF PAYMENTS.*—*The schedule of pay-*  
2 *ment of any lump-sum credit subject to this section is as*  
3 *follows:*

4           (1) *50 percent of the lump-sum credit shall be*  
5 *payable on the date on which, but for the enactment of*  
6 *this section, the full amount of the lump-sum credit*  
7 *would otherwise be payable.*

8           (2) *The remainder of the lump-sum credit shall be*  
9 *payable on the date which occurs 12 months after the*  
10 *date described in paragraph (1).*

11 *An amount payable in accordance with paragraph (2) shall*  
12 *be payable with interest, computed using the rate under sec-*  
13 *tion 8334(e)(3) of title 5, United States Code.*

14       (c) *EXCEPTIONS.*—*The Office of Personnel Manage-*  
15 *ment shall prescribe regulations under which this section*  
16 *shall not apply in the case of any individual as to whom the*  
17 *application of this section would be against equity and good*  
18 *conscience, due to a life-threatening affliction or other critical*  
19 *medical condition affecting such individual.*

20       (d) *ANNUITY BENEFITS NOT AFFECTED.*—*Nothing in*  
21 *this section shall affect the commencement date, the amount,*  
22 *or any other aspect of any annuity benefits payable under*  
23 *section 8343a or section 8420a of title 5, United States*  
24 *Code.*

1       (e) *DEFINITIONS.*—For purposes of this section, the  
 2 terms “lump-sum credit”, “employee”, and “Member” each  
 3 has the meaning given such term by section 8331 or section  
 4 8401 of title 5, United States Code, as appropriate.

5       ***TITLE VIII—COMMITTEE ON LABOR***  
 6               ***AND HUMAN RESOURCES***  
 7               ***Subtitle A—Pension Plans***

8       ***SEC. 8001. EMPLOYEE RETIREMENT INCOME SECURITY.***

9       (a) *PREMIUM RATES.*—Section 4006(a)(3)(A)(i) of  
 10 such Act (29 U.S.C. 1306(a)(3)(A)(i)) is amended by strik-  
 11 ing “\$16” and inserting “\$18”.

12       (b) *USE OF AMOUNT GAINED THROUGH INCREASE*  
 13 *IN PREMIUM RATES.*—

14               (1) *TREASURY.*—Additional amounts collected  
 15 under section 4006(a)(3)(A)(i) of the Employee Retire-  
 16 ment Income Security Act of 1974 (29 U.S.C.  
 17 1306(a)(3)(A)(i)) pursuant to the amendment made by  
 18 subsection (a) shall be credited on-budget as an offset-  
 19 ting receipt to the General Fund of the Treasury for  
 20 fiscal year 1990.

21               (2) *AUTHORIZATION OF APPROPRIATIONS.*—  
 22 There are authorized to be appropriated to the fund es-  
 23 tablished under section 4005(f) of the Employee Re-  
 24 tirement Income Security Act of 1974 (29 U.S.C.  
 25 1305(f)) for fiscal year 1990, an amount equal to the

1        *additional amounts collected under section*  
 2        *4006(a)(3)(A)(i) of such Act pursuant to the amend-*  
 3        *ment made by subsection (a).*

## 4                    ***Subtitle B—Education***

### 5                    ***HIGHER EDUCATION AMENDMENTS***

#### 6        ***SEC. 8101. SHORT TITLE.***

7            *This subtitle may be cited as the “Medical Residents’*  
 8        *Student Loan Amendments Act of 1989”.*

#### 9        ***SEC. 8102. DEFERMENTS.***

10        *(a) FEDERALLY INSURED STUDENT LOANS.—Section*  
 11        *427(a)(2)(C)(i) of the Higher Education Act of 1965, as*  
 12        *amended (hereinafter referred to as the “Act”) is amended by*  
 13        *striking out the semicolon at the end thereof and inserting in*  
 14        *lieu thereof a comma and “provided that no borrower shall be*  
 15        *eligible for a deferment under this clause, or a loan made*  
 16        *under this part, while serving in a medical internship or resi-*  
 17        *dency program;”.*

18        *(b) FEDERAL PAYMENTS TO REDUCE STUDENT IN-*  
 19        *TEREST COSTS.—Section 428(b)(1)(M)(i) of the Act is*  
 20        *amended by striking out the semicolon at the end thereof and*  
 21        *inserting in lieu thereof a comma and “provided that no bor-*  
 22        *rower shall be eligible for a deferment under this clause, or*  
 23        *loan made under this part, while serving in a medical intern-*  
 24        *ship or residency program;”.*



1       (c) *LOAN AGREEMENTS.*—Section 464(c)(2)(A)(i) of  
 2 the Act is amended by striking out the semicolon at the end  
 3 thereof and inserting in lieu thereof a comma and “provided  
 4 that no borrower shall be eligible for a deferment under this  
 5 clause, or a loan made under this part, while serving in a  
 6 medical internship or residency program;”.

7       (d) *EFFECTIVE DATE.*—The amendments made by this  
 8 section shall be effective for any loan made, insured, or guar-  
 9 anteed under part B or part E of title IV of the Act, includ-  
 10 ing a loan made before the enactment of this Act, and shall  
 11 take effect on October 1, 1989, except that such amendments  
 12 shall not apply with respect to any portion of a period of  
 13 deferment granted to a borrower under section  
 14 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the  
 15 Act for service in a medical internship or residency program  
 16 that is completed prior to the effective date of this section.

17 **SEC. 8103. FORBEARANCE.**

18       (a) *FEDERAL PAYMENTS TO REDUCE STUDENT IN-*  
 19 *TEREST COSTS.*—Section 428 of the Act is amended—

20               (1) in subsection (b)(1)—

21                       (A) in subparagraph (T), by striking out  
 22                       “and” at the end thereof;

23                       (B) in subparagraph (U), by striking out the  
 24                       period at the end thereof and inserting in lieu  
 25                       thereof a semicolon and “and”; and

1           (C) by adding at the end thereof the follow-  
2           ing new subparagraph:

3           “(V)(i) provides that, upon written request, a  
4           lender shall grant a borrower forbearance, renew-  
5           able at 12-month intervals, for a period equal to  
6           the length of time remaining in the borrower’s  
7           medical or dental internship or residency program  
8           on such terms as are otherwise consistent with the  
9           regulations of the Secretary, and agreed upon in  
10          writing by the parties to the loan with the approv-  
11          al of the insurer, if the borrower—

12           “(I) is serving in a medical or dental  
13          internship or residency program, the success-  
14          ful completion of which is required to begin  
15          professional practice or service, or serving in  
16          a medical or dental internship or residency  
17          program leading to a degree or certificate  
18          awarded by an institution of higher educa-  
19          tion, a hospital, or a health care facility that  
20          offers postgraduate training; and

21           “(II) has exhausted his or her eligibil-  
22          ity for a deferment under section  
23          427(a)(2)(C)(vii) or subparagraph (M)(vii)  
24          of this paragraph; and

1           “(ii) provides that no administrative or other  
2           fee may be charged in connection with the grant-  
3           ing of a forbearance under clause (i), and that no  
4           adverse information regarding a borrower may be  
5           reported to a credit bureau organization solely be-  
6           cause of the granting of a forbearance under  
7           clause (i).”; and

8           (2) by amending subsection (c)(3) to read as  
9           follows:

10           “(3) *FORBEARANCE*.—A guaranty agreement  
11           under this subsection—

12                   “(A) shall contain provisions providing for  
13                   forbearance in accordance with subsection  
14                   (b)(1)(V) for the benefit of the student borrower  
15                   serving in a medical or dental internship or resi-  
16                   dency program; and

17                   “(B) may, to the extent provided in regula-  
18                   tions of the Secretary, contain provisions that  
19                   permit such forbearance for the benefit of the stu-  
20                   dent borrower as may be agreed upon by the par-  
21                   ties to an insured loan and approved by the insur-  
22                   er. Such regulations shall not preclude guaranty  
23                   agencies from permitting the parties to such a  
24                   loan from entering into a forbearance agreement  
25                   solely because the loan is in default.”.

1       (b) *APPLICABILITY.*—*The amendments made by this*  
2 *section shall apply with respect to loans made before, on, or*  
3 *after the date of enactment of this Act.*

4 **SEC. 8104. SUPPLEMENTAL LOANS FOR STUDENTS.**

5       Section 428A(b)(4) of the Higher Education Act of  
6 1965 is amended by—

7           (1) inserting “(A)” after the paragraph designa-  
8       tion; and

9           (2) by adding the following new subparagraph at  
10       the end thereof:

11               “(B) In the case of any borrower who, on the  
12       date of entering into the note or other written evi-  
13       dence of the loan, has not successfully completed  
14       the first year of a program of undergraduate edu-  
15       cation, the financial aid administrator shall not  
16       certify the borrower’s eligibility for a loan under  
17       this section until a date which will ensure that the  
18       first disbursement of such loan to such borrower  
19       does not occur until the borrower has attended the  
20       institution for 30 days during the period of enroll-  
21       ment for which the loan was made.”.

22 **SEC. 8105. DISCRETIONARY INFORMATION FEE PROHIBITED.**

23       The Higher Education Act of 1965 is amended—

24           (1) in section 411F(12)(D) by inserting the fol-  
25       lowing new sentence at the end thereof: “No student or

1       parent may be charged a fee for supplying any supple-  
2       mentary information or documentation to a financial  
3       aid administrator pursuant to the provisions of this  
4       paragraph”;

5               (2) in section 479A(a) by—

6                       (A) striking “Nothing” and inserting “(1)  
7       Nothing”;

8                       (B) inserting the following new paragraph at  
9       the end thereof:

10               “(2) No student or parent may be charged a fee  
11       for supplying any supplementary information or docu-  
12       mentation to a financial aid officer pursuant to the  
13       provisions of paragraph (1)”;

14               (3) in section 480(d)(4) by inserting at the end  
15       thereof the following new sentence: “No student or  
16       parent may be charged a fee for supplying any supple-  
17       mentary information or documentation to a financial  
18       aid administrator pursuant to the provisions of this  
19       paragraph”; and

20               (4) in section 483(a)(1) by striking the period at  
21       the end thereof and inserting in lieu thereof “(except as  
22       provided in sections 411F(12)(D), 479A(a)(2), and  
23       480(d)(4)).

1    ***TITLE IX—VETERANS PROGRAMS***

2    ***SEC. 9001. HOME LOAN GUARANTY PROGRAM.***

3       *(a) ONE-YEAR EXTENSION OF LOAN FEE.—Section*  
4    *1829(c) of title 38, United States Code, is amended by strik-*  
5    *ing out “September 30, 1989” and inserting in lieu thereof*  
6    *“September 30, 1990”.*

7       *(b) ONE-YEAR POSTPONEMENT OF RESTRICTIONS ON*  
8    *WITHOUT-RECOURSE VENDEE LOAN SALES.—Section*  
9    *1833(a)(3) of title 38, United States Code, is amended by*  
10   *striking out “October 1, 1989” each place it appears and*  
11   *inserting in lieu thereof “October 1, 1990”.*

*Attest:*

*Secretary.*

101ST CONGRESS  
1ST SESSION

# H. R. 3299

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## AMENDMENT

October 18 (legislative day, September 18),  
1989

Ordered to be printed as passed

## Printed as Passed

October 18 (legislative day, September 18), 1989

Ordered to be printed as passed

### *In the Senate of the United States,*

*October 13 (legislative day, September 18), 1989.*

*Resolved*, That the bill from the House of Representatives (H.R. 3299) entitled “An Act to provide for reconciliation pursuant to section 5 of the concurrent resolution on the budget for the fiscal year 1990”, do pass with the following

## AMENDMENT:

Strike out all after the enacting clause and insert:

1 *SECTION 1. SHORT TITLE.*

2       *This Act may be cited as “The Omnibus Budget Recon-*  
3 *ciliation Act of 1989”.*

4 ***TITLE I—COMMITTEE ON AGRI-***  
5 ***CULTURE, NUTRITION, AND***  
6 ***FORESTRY***

7 *SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.*

8       (a) *SHORT TITLE.*—*This title may be cited as the*  
9 *“Agricultural Reconciliation Act of 1989”.*

10       (b) *TABLE OF CONTENTS.*—*The table of contents is as*  
11 *follows:*





*Sec. 1001. Short title; table of contents.*

*Subtitle A—Agricultural Commodity Programs*

*Sec. 1101. Cotton acreage reduction program.*

*Sec. 1102. Purchase price for nonfat dry milk and butter.*

*Sec. 1103. Reduction of deficiency payments for 1990 crops.*

*Sec. 1104. Planting of soybeans, sunflowers, and safflowers on permitted acreage.*

*Subtitle B—Agricultural Trade Programs*

*Sec. 1201. Export enhancement program.*

*Sec. 1202. Targeted export assistance.*

*Subtitle C—General Provisions*

*Sec. 1301. Purchases of Financial Assistance Corporation stock by Farm Credit System institutions.*

*Sec. 1302. Calculation of premiums by Farm Credit System Insurance Corporation.*

**1      *Subtitle A—Agricultural Commodity***  
**2                                      *Programs***

**3      *SEC. 1101. COTTON ACREAGE REDUCTION PROGRAM.***

**4              *Effective only for the 1990 crop of upland cotton, sec-***  
**5      *tion 103A(f)(2)(A) of the Agricultural Act of 1949***  
**6      *(7 U.S.C. 1444-1(f)(2)(A)) is amended by striking “(not to***  
**7      *exceed 25 percent)” and inserting “(not to exceed 25 percent***  
**8      *or, in the case of the 1990 crop, if the Secretary projects a***  
**9      *carryover of more than 7,000,000 bales (as of July 31, 1991)***  
**10     *of upland cotton, not to exceed 30 percent)”.***

**11     *SEC. 1102. PURCHASE PRICE FOR NONFAT DRY MILK AND***  
**12                                      *BUTTER.***

**13             *Section 201(d)(1) of the Agricultural Act of 1949 (7***  
**14     *U.S.C. 1446(d)(1)) is amended—***

**15                     *(1) in subparagraph (C)—***

1           (A) in clause (ii), by inserting after “Except  
2           as provided in” the following: “clause (iii) and”;  
3           and

4           (B) by adding at the end the following new  
5           clause:

6           “(iii) In carrying out this paragraph during cal-  
7           endar year 1990, the Secretary shall offer to purchase  
8           butter and nonfat dry milk for not less than \$1.10 per  
9           pound for butter and \$0.8475 per pound for nonfat dry  
10          milk, except that the Secretary may allocate the rate of  
11          price support between the purchase prices for nonfat  
12          dry milk and butter in such manner as the Secretary  
13          determines will result in the lowest level of expendi-  
14          tures by the Commodity Credit Corporation and shall  
15          notify the Committee on Agriculture of the House of  
16          Representatives and the Committee on Agriculture,  
17          Nutrition, and Forestry of the Senate of such determi-  
18          nation.”; and

19          (2) in subparagraph (D)(i), by striking “each of  
20          the calendar years 1988 and 1990” and inserting  
21          “calendar year 1988”.

1 **SEC. 1103. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990**  
2 **CROPS.**

3 (a) *IN GENERAL.*—*Title IV of the Agricultural Act of*  
4 *1949 (7 U.S.C. 1421 et seq.) is amended by adding at the*  
5 *end the following new section:*

6 **"SEC. 425. REDUCTION OF DEFICIENCY PAYMENTS FOR 1990**  
7 **CROPS.**

8 "(a) *IN GENERAL.*—*Notwithstanding any other provi-*  
9 *sion of law, the amount of deficiency payments made avail-*  
10 *able to producers of the 1990 crops of wheat, feed grains,*  
11 *upland cotton, and rice under sections 107D(c), 105C(c),*  
12 *103A(c), and 101A(c), respectively, shall be reduced by—*

13 "(1) *in the case of wheat, 2.33 cents per bushel;*

14 "(2) *in the case of corn, 2.33 cents per bushel*  
15 *(and a comparable amount for other feed grains, as de-*  
16 *termined by the Secretary);*

17 "(3) *in the case of upland cotton, .515 cents per*  
18 *pound; and*

19 "(4) *in the case of rice, 5.15 cents per hundred-*  
20 *weight.*

21 "(b) *APPLICATION TO ADVANCE DEFICIENCY PAY-*  
22 *MENTS.*—*To the extent practicable, the Secretary shall apply*  
23 *the reduction required under subsection (a) to any advance*  
24 *deficiency payment made available to producers of the 1990*  
25 *crops under section 107C."*

1       (b) *CONFORMING AMENDMENT.*—*Effective only for the*  
 2 *1990 crops of wheat, feed grains, upland cotton, and rice,*  
 3 *section 107C(a)(2)(G) of such Act (7 U.S.C. 1445b–*  
 4 *2(a)(2)(G)) is amended by inserting after “subsection” the*  
 5 *following: “(taking into consideration any reduction in the*  
 6 *payment made under section 425)”.*

7 **SEC. 1104. PLANTING OF SOYBEANS, SUNFLOWERS, AND SAF-**  
 8 **FLOWERS ON PERMITTED ACREAGE.**

9       (a) *PLANTING OF SOYBEANS, SUNFLOWERS, AND*  
 10 *SAFFLOWERS ON PERMITTED ACREAGE.*—*Effective only*  
 11 *for the 1990 crops, subsection (e) of section 504 the Agricul-*  
 12 *tural Act of 1949 (7 U.S.C. 1464(e)) is amended to read as*  
 13 *follows:*

14       “(e) *Notwithstanding any other provision of this Act—*  
 15       “(1) *Effective for the 1990 crops, the Secretary*  
 16 *shall, subject to paragraph (2), permit producers on a*  
 17 *farm to plant soybeans, sunflowers, or safflowers on a*  
 18 *portion specified by the producer (but in any event not*  
 19 *more than 25 percent) of the producers’ 1990 wheat,*  
 20 *feed grain, upland cotton, extra long staple cotton, and*  
 21 *rice permitted acreage, as determined by the Secretary.*

22       “(2)(A) *The Secretary shall establish a sign-up*  
 23 *period during which the producers on a farm, partici-*  
 24 *pating in the 1990 crop wheat, feed grain, upland*  
 25 *cotton, extra long staple cotton, or rice price support*

1        *and production adjustment program, must state their*  
2        *intentions regarding use of the increased planting pro-*  
3        *vision under paragraph (1).*

4                *“(B) After termination of the sign-up period*  
5        *under subparagraph (A), the Secretary shall estimate*  
6        *whether, based on the anticipated additional soybean,*  
7        *sunflower, and safflower plantings for the crop, the av-*  
8        *erage market price for the 1990 crop of soybeans will*  
9        *be below 115 percent of the loan rate established for the*  
10       *1989 crop of soybeans.*

11               *“(C) If the Secretary estimates that the average*  
12       *market price for the 1990 crop of soybeans will be*  
13       *below 115 percent of such loan rate, the Secretary*  
14       *shall reduce the percentage of permitted acreage on the*  
15       *farm that may be planted to soybeans, sunflowers, and*  
16       *safflowers to a level, or prohibit such plantings, as is*  
17       *necessary to ensure, to the extent practicable, that the*  
18       *average soybean market price does not fall below 115*  
19       *percent of such loan rate.*

20               *“(D) The Secretary shall submit to the Commit-*  
21       *tee on Agriculture of the House of Representatives and*  
22       *the Committee on Agriculture, Nutrition, and Forestry*  
23       *of the Senate a statement setting forth the reasons for*  
24       *any reduction in the permitted planting percentage, or*  
25       *prohibition on such plantings, under this paragraph.*

1           “(3)(A) For the purposes of determining the farm  
2           acreage base or the crop acreage bases for the farm,  
3           any acreage on the farm on which soybeans, sunflow-  
4           ers, or safflowers are planted under this subsection  
5           shall be considered to be planted to the program crop  
6           for which soybeans, sunflowers, or safflowers are sub-  
7           stituted.

8           “(B) The Secretary may not make program bene-  
9           fits other than soybean or sunflower seed price support  
10          loans and purchases available to producers with respect  
11          to acreage planted to soybeans, sunflowers, or safflow-  
12          ers under this subsection and shall ensure that the crop  
13          acreage bases established for the farm and the farm  
14          acreage base are not increased due to such plantings.”.

15          (b) *FEED GRAIN ACREAGE LIMITATION PROGRAM.*—  
16          Effective only for the 1990 crop of feed grains, section  
17          105C(f)(1)(C) of such Act (7 U.S.C. 1444e(f)(1)(C)) is  
18          amended—

19               (1) by striking “(C)”, “1990”, “(i)”, and “(ii)”  
20               and inserting “(C)(i)”, “1989”, “(I)”, and “(II)”, re-  
21               spectively; and

22               (2) by adding at the end the following new clause:

23               “(ii) In the case of the 1990 crop of feed grains, if the  
24          Secretary estimates, not later than September 30, 1989, that  
25          the quantity of corn on hand in the United States on the first

1 day of the marketing year for that crop (not including any  
2 quantity of corn of that crop) will be—

3 “(I) more than 2,000,000,000 bushels, the Secre-  
4 tary shall provide for an acreage limitation program  
5 (as described in paragraph (2)) under which the acre-  
6 age planted to feed grains for harvest on a farm would  
7 be limited to the feed grain crop acreage base for the  
8 farm for the crop reduced by not less than  $12\frac{1}{2}$  percent  
9 nor more than 20 percent;

10 “(II) less than 2,000,000,000 bushels but more  
11 than 1,800,000,000 bushels, the Secretary shall pro-  
12 vide for an acreage limitation program (as described in  
13 paragraph (2)) under which the acreage planted to feed  
14 grains for harvest on a farm would be limited to the  
15 feed grain crop acreage base for the farm for the crop  
16 reduced by not less than 10 percent nor more than  
17  $12\frac{1}{2}$  percent; or

18 “(III) 1,800,000,000 bushels or less, the Secre-  
19 tary may provide for an acreage limitation program  
20 (as described in paragraph (2)) under which the acre-  
21 age planted to feed grains for harvest on a farm would  
22 be limited to the feed grain crop acreage base for the  
23 farm for the crop reduced by not more than  
24 10 percent.”.

***Subtitle B—Agricultural Trade  
Programs***

***SEC. 1201. EXPORT ENHANCEMENT PROGRAM.***

(a) *REDUCTION OF EXPENDITURES.*—During fiscal year 1990, except to the extent provided for under section 4301 of the Agricultural Competitiveness and Trade Act of 1988 (Public Law 100–418; 7 U.S.C. 1446 note), the Commodity Credit Corporation shall not make available to exporters, processors, and foreign importers under the authority of section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) more than \$650,000,000 in commodities of the Commodity Credit Corporation to enhance the export of United States commodities by making the price of such commodities competitive in the world market.

***SEC. 1202. TARGETED EXPORT ASSISTANCE.***

Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) by striking “and” at the end of paragraph (2);

and

(2) by striking paragraph (3) and inserting the following:

“(3) for the fiscal year 1989, the Secretary shall use under this section not less than \$325,000,000 of the funds of, or commodities owned by, the Corporation; and



1           “(4) for the fiscal year 1990, the Secretary shall  
 2           use under this section not less than \$225,000,000 of  
 3           the funds of, or commodities owned by, the Corpora-  
 4           tion.”.

## 5           **Subtitle C—General Provisions**

### 6   **SEC. 1301. PURCHASES OF FINANCIAL ASSISTANCE CORPORA-** 7                           **TION STOCK BY FARM CREDIT SYSTEM INSTITU-** 8                           **TIONS.**

9           (a) *DELAYED EFFECTIVE DATE FOR STOCK PUR-*  
 10          *CHASE REQUIREMENT.*—Notwithstanding any other provi-  
 11          sion of law, the amendments to section 6.29 of the Farm  
 12          Credit Act of 1971 (12 U.S.C. 2278b-9) made by section  
 13          646 of the Rural Development, Agriculture, and Related  
 14          Agencies Appropriations Act, 1989 (Public Law 100-460;  
 15          102 Stat. 2266) shall be effective on October 1, 1992.

16          (b) *PAYMENTS.*—

17                 (1) *FOUR ANNUAL PAYMENTS.*—Notwithstanding  
 18          any other provision of law, the Financial Assistance  
 19          Corporation shall pay, out of the Trust Fund estab-  
 20          lished under section 6.25 of the Farm Credit Act of  
 21          1971 (12 U.S.C. 2278b-5), to each of the institutions  
 22          of the Farm Credit System that purchased stock in the  
 23          Financial Assistance Corporation under section 6.29  
 24          of the Farm Credit Act of 1971, four annual payments  
 25          as provided in this subsection.

1           (2) *TIMING OF PAYMENTS.*—*The annual pay-*  
2           *ments provided for by this subsection shall be made*  
3           *available as soon as practicable after October 1 of each*  
4           *of the calendar years 1989 through 1992.*

5           (3) *CALCULATION OF FIRST PAYMENT.*—*The*  
6           *first annual payment made available under this sub-*  
7           *section shall be in an amount equal to—*

8                     (i) *a percentage equal to 1.5 times the aver-*  
9                     *age rate of interest received by the Financial*  
10                    *Assistance Corporation from March 30, 1988,*  
11                    *through September 30, 1989; times*

12                   (ii) *the difference between \$177,000,000 and*  
13                    *4.4 percent of the amount of the cumulative*  
14                    *amount of the bonds issued by the Financial*  
15                    *Assistance Corporation by September 30, 1989.*

16           (4) *CALCULATION OF REMAINING PAYMENTS.*—  
17           *The second, third, and fourth payments made available*  
18           *under this subsection shall be in an amount equal to—*

19                   (i) *a percentage equal to the average rate of*  
20                    *interest received by the Financial Assistance Cor-*  
21                    *poration during each of the fiscal years 1990*  
22                    *through 1992; times*

23                   (ii) *the difference between \$177,000,000 and*  
24                    *4.4 percent of the amount of the cumulative*

1           *amount of the bonds issued by September 30 of*  
 2           *each of such fiscal years.*

3           (5) *DISTRIBUTION OF ANNUAL PAYMENTS.—*

4           *Annual payments due under this subsection shall be*  
 5           *made available to each institution described in para-*  
 6           *graph (1) in an amount equal to the total amount of*  
 7           *annual payments to be made available times the ratio*  
 8           *of the amount of stock each institution purchased divid-*  
 9           *ed by \$177,000,000.*

10 *SEC. 1302. CALCULATION OF PREMIUMS BY FARM CREDIT*  
 11 *SYSTEM INSURANCE CORPORATION.*

12           (a) *IN GENERAL.—Section 5.55 of the Farm Credit*  
 13 *Act of 1971 (12 U.S.C. 2277a–4(a)) is amended—*

14           (1) *by striking subsection (a) and inserting the*  
 15 *following new subsection:*

16           “(a) *AMOUNT IN FUND NOT EXCEEDING SECURE*  
 17 *BASE AMOUNT.—*

18           “(1) *IN GENERAL.—Until the aggregate of*  
 19 *amounts in the Farm Credit Insurance Fund exceeds*  
 20 *the secure base amount, the annual premium due from*  
 21 *any insured System bank for any calendar year shall*  
 22 *be equal to the sum of—*

23           “(A) *the annual average principal outstand-*  
 24 *ing (as adjusted under paragraph (2)) for such*

1           year on loans made by the bank that are in accru-  
2           al status, multiplied by 0.0015; and

3           “(B) the annual average principal outstand-  
4           ing (as adjusted under paragraph (2)) for such  
5           year on loans made by the bank that are in non-  
6           accrual status, multiplied by 0.0025.

7           “(2) *ADJUSTMENT OF ANNUAL AVERAGE PRIN-*  
8           *CIPAL OUTSTANDING.*—The Corporation, under proce-  
9           dures and criteria established by regulation, shall  
10          adjust downward the annual average principal out-  
11          standing for a bank during a year to exclude all or a  
12          portion of any principal outstanding on Government-  
13          guaranteed loans made by the bank and loans made by  
14          associations serviced by such bank (as described in  
15          subsection (d)(1)), as appropriate on an actuarial basis  
16          to more accurately reflect the reduced risks associated  
17          with such loans for the holders of insured obligations of  
18          insured System banks.

19          “(3) *DEFINITION OF GOVERNMENT-GUARAN-*  
20          *TEED LOANS.*—As used in this subsection and subsec-  
21          tion (c), the term ‘Government-guaranteed loan’ means  
22          a loan, or portion of a loan, made by an insured  
23          System bank that carries a full faith and credit per-  
24          formance or loss guarantee or surety or an uncondi-  
25          tional guarantee of the United States Government or

1     *any State government, or of any department, agency,*  
2     *bureau, board, commission, or establishment thereof, or*  
3     *any corporation wholly owned directly or indirectly by*  
4     *the United States or any State.”;*

5             (2) in subsection (b), by inserting after “for the  
6     *following calendar year” the following: “, as deter-*  
7     *mined under subsection (a),”;*

8             (3) in subsection (c), by inserting after “at such  
9     *time” the following: “(adjusted downward to exclude,*  
10    *from that portion of such obligations attributable to*  
11    *Government-guaranteed loans made by insured System*  
12    *banks and loans made by associations serviced by such*  
13    *banks (as described in subsection (d)(1)), an amount*  
14    *that reflects all risk-based reductions of principal out-*  
15    *standing on such guaranteed loans for purposes of es-*  
16    *tablishing premium rates under subsection (a), as*  
17    *determined by the Corporation)”;* and

18             (4) in subsection (d), by striking paragraph (1)  
19     *and inserting the following new paragraph:*

20             “(1) by any production credit association or any  
21     *other association making direct loans under authority*  
22     *transferred to it under section 7.6, that is able to make*  
23     *such loans because such association is receiving, or has*  
24     *received, funds provided through the Farm Credit*  
25     *Bank;”.*

1 (b) *EFFECTIVE DATE.*—*The amendments made by*  
 2 *subsection (a) shall become effective on January 1, 1989.*

3 ***TITLE II—COMMITTEE ON BANK-***  
 4 ***ING, HOUSING, AND URBAN***  
 5 ***AFFAIRS***

6 ***SEC. 201. EXTENSION OF FLOOD INSURANCE PROGRAM.***

7 (a) *IN GENERAL.*—*Section 1319 of the National Flood*  
 8 *Insurance Act of 1968 (42 U.S.C. 4026) is amended by*  
 9 *striking “September 30, 1989” and inserting “Septem-*  
 10 *ber 30, 1991”.*

11 (b) *EMERGENCY IMPLEMENTATION.*—*Section 1336(a)*  
 12 *of the National Flood Insurance Act of 1968 (42 U.S.C.*  
 13 *4056(a)) is amended by striking “September 30, 1989” and*  
 14 *inserting “September 30, 1991”.*

15 (c) *STRUCTURES ON LAND SUBJECT TO IMMINENT*  
 16 *COLLAPSE OR SUBSIDENCE.*—*Section 1306(c)(7) of the*  
 17 *National Flood Insurance Act of 1968 (42 U.S.C.*  
 18 *4013(c)(7)) is amended by striking “September 30, 1989”*  
 19 *and inserting “September 30, 1991”.*

20 ***SEC. 202. FLOOD ZONE DATA.***

21 *Section 1360(a) of the National Flood Insurance Act of*  
 22 *1968 (42 U.S.C. 4101(a)) is amended by striking paragraph*  
 23 *(2) and inserting the following:*

24 “(2) *establish or update flood-risk zone data in all*  
 25 *such areas, and make estimates with respect to the*

1 rates of probable flood caused loss for the various flood  
 2 risk zones for each of these areas until the date speci-  
 3 fied in section 1319.”

4 **TITLE III—COMMITTEE ON COM-**  
 5 **MERCE, SCIENCE, AND TRANS-**  
 6 **PORTATION**

7 **SEC. 301. FEDERAL COMMUNICATIONS COMMISSION FEES,**  
 8 **FINES, AND PENALTIES.**

9 **(a) FCC FEES.—**

10 (1) **UPDATE OF FEE SCHEDULES.**—Section 8 of  
 11 the Communications Act of 1934 (47 U.S.C. 158) is  
 12 amended by adding at the end the following:

13 “(g) Until modified pursuant to subsection (b) of this  
 14 section, the Schedule of Charges which the Federal Commu-  
 15 nications Commission shall prescribe pursuant to subsection  
 16 (a) of this section shall be as follows:

“SCHEDULE OF CHARGES

Service	Fee amount
<b>PRIVATE RADIO SERVICES</b>	
<b>1. Marine Coast Stations</b>	
a. New License (per station).....	\$70.00
b. Modification of License (per station).....	70.00
c. Renewal of License (per station) .....	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	100.00
e. Assignments (per station).....	70.00
f. Transfers of Control (per station) .....	35.00
g. Request for Waiver (per station)	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
<b>2. Ship Stations</b>	
a. New License (per application).....	35.00
b. Modification of License (per application).....	35.00
c. Renewal of License (per application) .....	35.00

d. Transfer of Control (per call sign).....	35.00
e. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
3. Operational Fixed Microwave Stations	
a. New License (per station).....	155.00
b. Modification of License (per station).....	155.00
c. Renewal of License (per station) .....	155.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
e. Assignments (per station).....	155.00
f. Transfers of Control (per station) .....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
4. Aviation (Ground Stations)	
a. New License (per station).....	70.00
b. Modification of License (per station).....	70.00
c. Renewal of License (per station) .....	70.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	100.00
e. Assignments (per station).....	70.00
f. Transfers of Control (per station) .....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
5. Aircraft Stations	
a. New License (per application).....	35.00
b. Modification of License (per application).....	35.00
c. Renewal of License (per application) .....	35.00
d. Transfer of Control (per call sign).....	35.00
e. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
6. Land Mobile Radio Stations	
a. New License (per call sign).....	35.00
b. Modification of License (per call sign).....	35.00
c. Renewal of License (per call sign) .....	35.00
d. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
e. Assignments (per station).....	35.00
f. Transfers of Control (per call sign) .....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Non-Routine (per rule section/per station).....	105.00
h. Reinstatement (per call sign).....	35.00
i. Specialized Mobile Radio Systems-Base Stations	
(i) New License (per call sign).....	35.00
(ii) Modification of License (per call sign).....	35.00
(iii) Renewal of License (per call sign).....	35.00
(iv) Waiting List (annual charge per application).....	35.00
(v) Special Temporary Authority (Initial, Modifica- tions, Extensions).....	35.00
(vi) Assignments (per call sign).....	35.00
(vii) Transfers of Control (per call sign).....	35.00



(viii) Request for Waiver	
(1) Routine (per request).....	105.00
(2) Non-Routine (per rule section/per station) .....	105.00
(ix) Reinstatements (per call sign).....	35.00
j. Private Carrier Licenses	
(i) New License (per call sign).....	35.00
(ii) Modification of License (per call sign).....	35.00
(iii) Renewal of License (per call sign).....	35.00
(iv) Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
(v) Assignments (per call sign).....	35.00
(vi) Transfers of Control (per call sign).....	35.00
(vii) Request for Waiver	
(1) Routine (per request).....	105.00
(2) Non-Routine (per rule section/per station) .....	105.00
(viii) Reinstatements (per call sign).....	35.00
7. Amateur License	
a. New License (per application).....	35.00
b. Modification of License (per application).....	35.00
c. Renewal of License (per application) .....	35.00
d. Reciprocal Permit for Alien Amateur License .....	35.00
e. Renewal or Modification of Amateur Club, RACES, or Military Recreation Station License .....	35.00
f. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
g. Request for Waiver	
(i) Routine (per request).....	105.00
(ii) Nonroutine (per rule section/per station).....	105.00
8. General Mobile Radio Service	
a. New License (per call sign).....	35.00
b. Modifications of License (per call sign) .....	35.00
c. Renewal of License (per call sign) .....	35.00
d. Request for Waiver .....	
(i) Routine (per request).....	105.00
(ii) Nonroutine (per rule section/per station).....	105.00
e. Special Temporary Authority (Initial, Modifications, Extensions).....	35.00
f. Transfer of control (per call sign).....	35.00
9. Restricted Radiotelephone Operator Permit .....	35.00
10. Request for Duplicate Station License (all services) .....	35.00
11. Hearing (Comparative New and Modifications) .....	6,760.00

#### EQUIPMENT APPROVAL SERVICES/EXPERIMENTAL RADIO

1. Certification	
a. Receivers (except TV and FM receivers) .....	285.00
b. All Other Devices .....	735.00
c. Modifications and Class II Permissive Changes .....	35.00
d. Request for Confidentiality .....	105.00
2. Type Acceptance	
a. All Devices.....	370.00
b. Modifications and Class II Permissive Changes .....	35.00
c. Request for Confidentiality.....	105.00
3. Type Approval (all devices)	
a. With Testing (including Major Modifications).....	1,465.00

b. Without Testing (including <i>Minor Modifications</i> ).....	170.00
c. Request for Confidentiality.....	105.00
4. Notifications.....	115.00
5. Advance Approval of Subscription TV System.....	2,255.00
a. Request for Confidentiality.....	105.00
6. Assignment of Grantee Code for Equipment Identification.....	35.00
7. Experimental Radio Service	
a. New Construction Permit and Station Authorization (per application).....	35.00
b. Modification to Existing Construction Permit and Sta- tion Authorization (per application).....	35.00
c. Renewal of Station Authorization (per application).....	35.00
d. Assignment or Transfer of Control (per application).....	35.00
e. Special Temporary Authority (per application).....	35.00
f. Additional Charge for Applications Containing Requests to Withhold Information From Public Inspection (per application).....	35.00

#### MASS MEDIA SERVICES

1. Commercial TV Stations	
a. New or Major Change Construction Permits.....	2,535.00
b. Minor Change.....	565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal).....	6,760.00
d. License.....	170.00
e. Assignment or Transfer	
(i) Long Form (Forms 314/315).....	565.00
(ii) Short Form (Form 316).....	80.00
f. Renewal.....	100.00
g. Call Sign (New or Modification).....	55.00
h. Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent).....	100.00
i. Extension of Time to Construct or Replacement of CP....	200.00
j. Permit to Deliver Programs to Foreign Broadcast Sta- tions.....	55.00
k. Petition for Rulemaking for New Community of License or Higher Class Channel.....	1,565.00
l. Ownership Report (per report).....	35.00
2. Commercial Radio Stations	
a. New and Major Change Construction Permit	
(i) AM Station.....	2,255.00
(ii) FM Station.....	2,030.00
b. Minor Change	
(i) AM Station.....	565.00
(ii) FM Station.....	565.00
c. Hearing (Major/Minor Change, Comparative New or Comparative Renewal).....	6,760.00
d. License	
(i) AM.....	370.00
(ii) FM.....	115.00
(iii) AM Directional Antenna.....	425.00
(iv) FM Directional Antenna.....	355.00
(v) AM Remote Control.....	35.00

<i>e. Assignment or Transfer</i>	
(i) Long Form (Forms 314/315).....	565.00
(ii) Short Form (Form 316).....	80.00
<i>f. Renewal</i> .....	100.00
<i>g. Call Sign (New or Modification)</i> .....	55.00
<i>h. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
<i>i. Extension of Time to Construct or Replacement of CP</i> ....	200.00
<i>j. Permit to Deliver Programs to Foreign Broadcast Sta-         tions</i> .....	55.00
<i>k. Petition for Rulemaking for New Community of License         or Higher Class Channel</i> .....	1,565.00
<i>l. Ownership Report (per report)</i> .....	35.00
3. <i>Commercial FM Translators</i>	
<i>a. New or Major Change Construction Permit</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
4. <i>Commercial TV Translators and LPTV Stations</i>	
<i>a. New or Major Change Construction Permit</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
5. <i>Commercial Auxiliary Services (Includes Remote Pickup sta-     tions, TV Auxiliary Broadcast stations, Aural Broadcast     STL and Intercity Relay stations, and Low Power Auxiliary     stations)</i>	
<i>a. Major Actions</i> .....	85.00
<i>b. Renewals</i> .....	35.00
<i>c. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
6. <i>Commercial FM/TV Boosters</i>	
<i>a. New and Major Change Construction Permits</i> .....	425.00
<i>b. License</i> .....	85.00
<i>c. Assignment or Transfer</i> .....	80.00
<i>d. Renewal</i> .....	35.00
<i>e. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
7. <i>International Broadcast Station (Commercial)</i>	
<i>a. New Construction Permit and Facilities Change CP</i> .....	1,705.00
<i>b. License</i> .....	385.00
<i>c. Assignment or Transfer (per station)</i> .....	60.00
<i>d. Renewal</i> .....	95.00
<i>e. Frequency Assignment and Coordination (per frequency         hour)</i> .....	35.00
<i>f. Special Temporary Authority (other than to remain         silent or extend an existing STA to remain silent)</i> .....	100.00
8. <i>Cable Television Service</i>	
<i>a. Cable Television Relay Service</i>	
(i) Construction Permit.....	155.00
(ii) Assignment or Transfer.....	155.00

(iii) <i>Renewal</i> .....	155.00
(iv) <i>Modification</i> .....	155.00
(v) <i>Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)</i> .....	100.00
b. <i>Cable Special Relief Petition</i> .....	790.00
c. <i>76.12 Registration Statement (per statement)</i> .....	35.00
d. <i>Aeronautical Frequency Usage Notifications (per notice)</i> .....	35.00
e. <i>Aeronautical Frequency Usage Waivers (per waiver)</i> .....	35.00
9. <i>Direct Broadcast Satellite</i>	
a. <i>New or Major Change Construction Permit</i>	
(i) <i>Application for Authorization to Construct a Direct Broadcast Satellite</i> .....	2,030.00
(ii) <i>Issuance of Construction Permit &amp; Launch Authority</i> .....	19,710.00
(iii) <i>License to Operate Satellite</i> .....	565.00
b. <i>Hearing (Comparative New, Major/Minor Modifications, or Comparative Renewal)</i> .....	6,760.00
c. <i>Special Temporary Authority (other than to remain silent or extend an existing STA to remain silent)</i> .....	100.00

## COMMON CARRIER SERVICES

1. <i>All Common Carrier Services</i>	
a. <i>Hearing (Comparative New or Major/Minor Modifications)</i> .....	6,760.00
b. <i>Developmental Authority—Same charge as regular authority in service unless otherwise indicated</i>	
c. <i>Formal Complaints and Pole Attachment Complaints Filing Fee</i> .....	120.00
2. <i>Domestic Public Land Mobile Stations (includes Base, Dispatch, Control &amp; Repeater Stations)</i>	
a. <i>New or Additional Facility (per transmitter)</i> .....	230.00
b. <i>Major Modifications (per transmitter)</i> .....	230.00
c. <i>Fill In Transmitters (per transmitter)</i> .....	230.00
d. <i>Major Amendment to a Pending Application (per transmitter)</i> .....	230.00
e. <i>Assignment or Transfer (per call sign)</i> .....	230.00
f. <i>Partial Assignment (per call sign)</i> .....	230.00
g. <i>Renewal (per call sign)</i> .....	35.00
h. <i>Minor Modification (per transmitter)</i> .....	35.00
i. <i>Special Temporary Authority (per frequency/per location)</i> .....	200.00
j. <i>Extension of Time to Construct (per application)</i> .....	35.00
k. <i>Notice of Completion of Construction (per application)</i> ....	35.00
l. <i>Auxiliary Test Station (per transmitter)</i> .....	200.00
m. <i>Subsidiary Communications Service (per request)</i> .....	100.00
n. <i>Reinstatement (per application)</i> .....	35.00
o. <i>Combining Call Signs (per call sign)</i> .....	200.00
p. <i>Standby Transmitter (per transmitter/per location)</i> .....	200.00
q. <i>900 MHz Nationwide Paging</i>	
(i) <i>Renewal</i>	
(1) <i>Network Organizer</i> .....	35.00
(2) <i>Network Operator (per operator/per city)</i> .....	35.00

<i>r. Air-Ground Individual License</i>	
(i) Initial License (per station) .....	35.00
(ii) Renewal of License (per station) .....	35.00
(iii) Modification of License (per station) .....	35.00
3. Cellular Systems (per system)	
a. New or Additional Facilities .....	230.00
b. Major Modification .....	230.00
c. Minor Modification .....	60.00
d. Assignment or Transfer (including partial) .....	230.00
e. License to Cover Construction	
(i) Initial License for Wireline Carrier .....	595.00
(ii) Subsequent License for Wireline Carrier .....	60.00
(iii) License for Nonwireline Carrier .....	60.00
(iv) Fill In License (all carriers) .....	60.00
f. Renewal .....	35.00
g. Extension of Time to Complete Construction .....	35.00
h. Special Temporary Authority (per system) .....	200.00
i. Combining Cellular Geographic Service Areas (per system) .....	50.00
4. Rural Radio (includes Central Office, Interoffice, or Relay Facilities)	
a. New or Additional Facility (per transmitter) .....	105.00
b. Major Modification (per transmitter) .....	105.00
c. Major Amendment to Pending Application (per transmitter) .....	105.00
d. Minor Modification (per transmitter) .....	35.00
e. Assignment or Transfer (per call sign) .....	105.00
(i) Partial Assignment (per call sign) .....	105.00
f. Renewal (per call sign) .....	35.00
g. Extension of Time to Complete Construction (per application) .....	35.00
h. Notice of Completion of Construction (per application) .....	35.00
i. Special Temporary Authority (per frequency/per location) .....	200.00
j. Reinstatement (per application) .....	35.00
k. Combining Call Signs (per call sign) .....	200.00
l. Auxiliary Test Station (per transmitter) .....	200.00
m. Standby Transmitter (per transmitter per location) .....	200.00
5. Offshore Radio Service (Mobile, Subscriber, and Central Stations; fees would also apply to any expansion of this service into coastal waters other than the Gulf of Mexico)	
a. New or Additional Facility (per transmitter) .....	105.00
b. Major Modifications (per transmitter) .....	105.00
c. Fill In Transmitters (per transmitter) .....	105.00
d. Major Amendment to Pending Application (per transmitter) .....	105.00
e. Minor Modification (per transmitter) .....	35.00
f. Assignment or Transfer (per call sign) .....	105.00
(i) Partial Assignment (per call sign) .....	105.00
g. Renewal (per call sign) .....	35.00
h. Extension of Time to Complete Construction (per application) .....	35.00
i. Reinstatement (per application) .....	35.00
j. Notice of Completion of Construction (per application) .....	35.00

k. Special Temporary Authority (per frequency/per location) .....	200.00
l. Combining Call Signs (per call sign).....	200.00
m. Auxiliary Test Station (per transmitter) .....	200.00
n. Standby Transmitter (per transmitter/per location).....	200.00
6. Point-to-Point Microwave and Local Television Radio Service	
a. Conditional License (per station).....	155.00
b. Major Modification of Conditional License or License Authorization (per station).....	155.00
c. Certification of Completion of Construction (per station) .	155.00
d. Renewal (per licensed station).....	155.00
e. Assignment or Transfer (per authorized station) .....	55.00
f. Extension of Construction Authorization (per station).....	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request).....	70.00
7. Multipoint Distribution Service (including multichannel MDS)	
a. Conditional License (per station).....	155.00
b. Major Modification of Conditional License or License Authorization (per station).....	155.00
c. Certification of Completion of Construction (per channel)	455.00
d. Renewal (per licensed station).....	155.00
e. Assignment or Transfer (per authorized station) .....	55.00
f. Extension of Construction Authorization (per station).....	110.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request).....	70.00
8. Digital Electronic Message Service	
a. Conditional License (per nodal station) .....	155.00
b. Modification of Conditional License or Prior Construction Authorization (per nodal station) .....	155.00
c. Certification of Completion of Construction (per nodal station).....	155.00
d. Renewal (per licensed nodal station).....	155.00
e. Assignment or Transfer (per authorized station) .....	55.00
f. Extension of Construction Authorization (per station).....	55.00
g. Special Temporary Authority or Request for Waiver of Prior Construction Authorization (per request).....	70.00
9. International Fixed Public Radio (Public & Control Stations)	
a. Initial Construction Permit (per station).....	510.00
b. Assignment or Transfer (per application).....	510.00
c. Renewal (per license).....	370.00
d. Modification (per station).....	370.00
e. Extension of Construction Authorization (per station).....	185.00
f. Special Temporary Authority or Request for Waiver (per request) .....	185.00
10. Fixed Satellite Transmit/Receive Earth Stations	
a. Initial Application (per station) .....	1,525.00
b. Modification of License (per station).....	105.00
c. Assignment or Transfer	
(i) First Station on Application.....	300.00
(ii) Each Additional Station.....	100.00
d. Developmental Station (per station).....	1,000.00
e. Renewal of License (per station) .....	105.00

<i>f. Special Temporary Authority or Waivers of Prior Construction Authorization (per request)</i> .....	105.00
<i>g. Amendment of Application (per station)</i> .....	105.00
<i>h. Extension of Construction Permit (per station)</i> .....	105.00
11. <i>Small Transmit/Receive Earth Stations (2 meters or less and operating in the 4/6 GHz frequency band)</i>	
<i>a. Lead Application</i> .....	3,380.00
<i>b. Routine Application (per station)</i> .....	35.00
<i>c. Modification of License (per station)</i> .....	105.00
<i>d. Assignment or Transfer</i>	
<i>(i) First Station on Application</i> .....	300.00
<i>(ii) Each Additional Station</i> .....	35.00
<i>e. Developmental Station (per station)</i> .....	1,000.00
<i>f. Renewal of License (per station)</i> .....	105.00
<i>g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)</i> .....	105.00
<i>h. Amendment of Application (per station)</i> .....	105.00
<i>i. Extension of Construction Permit (per station)</i> .....	105.00
12. <i>Receive Only Earth Stations</i>	
<i>a. Initial Application for Registration</i> .....	230.00
<i>b. Modification of License or Registration (per station)</i> .....	105.00
<i>c. Assignment or Transfer</i>	
<i>(i) First Station on Application</i> .....	300.00
<i>(ii) Each Additional Station</i> .....	100.00
<i>d. Renewal of License (per station)</i> .....	105.00
<i>e. Amendment of Application (per station)</i> .....	105.00
<i>f. Extension of Construction Permit (per station)</i> .....	105.00
<i>g. Waivers (per request)</i> .....	105.00
13. <i>Very Small Aperture Terminal (VSAT) Systems</i>	
<i>a. Initial Application (per system)</i> .....	5,630.00
<i>b. Modification of License (per system)</i> .....	105.00
<i>c. Assignment or Transfer of System</i> .....	1,505.00
<i>d. Developmental Station</i> .....	1,000.00
<i>e. Renewal of License (per system)</i> .....	105.00
<i>f. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)</i> .....	105.00
<i>g. Amendment of Application (per system)</i> .....	105.00
<i>h. Extension of Construction Permit (per system)</i> .....	105.00
14. <i>Mobile Satellite Earth Stations</i>	
<i>a. Initial Application of Blanket Authorization</i> .....	5,630.00
<i>b. Initial Application for Individual Earth Station</i> .....	1,350.00
<i>c. Modification of License (per station)</i> .....	105.00
<i>d. Assignment or Transfer (per system)</i> .....	1,505.00
<i>e. Developmental Station</i> .....	1,000.00
<i>f. Renewal of License (per system)</i> .....	105.00
<i>g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request)</i> .....	105.00
<i>h. Amendment of Application (per system)</i> .....	105.00
<i>i. Extension of Construction Permit (per system)</i> .....	105.00
15. <i>Radiodetermination Satellite Earth Stations</i>	
<i>a. Initial Application of Blanket Authorization</i> .....	5,630.00
<i>b. Initial Application for Individual Earth Station</i> .....	1,350.00
<i>c. Modification of License (per station)</i> .....	105.00
<i>d. Assignment or Transfer (per system)</i> .....	1,505.00
<i>e. Developmental Station</i> .....	1,000.00

f. Renewal of License (per system).....	105.00
g. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).....	105.00
h. Amendment of Application (per system).....	105.00
i. Extension of Construction Permit (per system) .....	105.00
16. Space Stations	
a. Application for Authority to Construct.....	2,030.00
b. Application for Authority to Launch and Operate	
(i) Initial Application.....	70,000.00
(ii) Replacement Satellite.....	70,000.00
c. Assignment or Transfer (per satellite) .....	5,000.00
d. Modification.....	5,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).....	500.00
f. Amendment of Application.....	1,000.00
g. Extension of Construction Permit/Launch Authorization (per request).....	500.00
17. Section 214 Applications	
a. Overseas Cable Construction .....	9,125.00
b. Cable Landing License	
(i) Common Carrier .....	1,025.00
(ii) NonCommon Carrier .....	10,150.00
c. Domestic Cable Construction.....	610.00
d. All Other 214 Applications .....	610.00
e. Special Temporary Authority (all services).....	610.00
f. Assignments or Transfers (all services) .....	610.00
18. Recognized Private Operating Status (per application).....	610.00
19. Telephone Equipment Registration .....	155.00
20. Tariff Filings	
a. Filing Fee.....	490.00
b. Special Permission Filing (per filing).....	490.00
21. Accounting and Audits	
a. Field Audit.....	62,290.00
b. Review of Attest Audit.....	34,000.00
c. Review of Depreciation Update Study (Single State) .....	20,685.00
(i) Each Additional State.....	680.00
d. Interpretation of Accounting Rules (per request).....	2,885.00
e. Petition for Waiver (per petition).....	4,660.00

#### MISCELLANEOUS CHARGES

1. International Telecommunications Settlements	
Administrative Fee for Collections (per line item).....	2.00
2. Radio Operator Examinations	
a. Commercial Radio Operator Examination.....	35.00
b. Renewal of Commercial Radio Operator License, Permit, or Certificate.....	35.00
c. Duplicate Commercial Radio Operator License, Permit, or Certificate.....	35.00
3. Importation of Radio Frequency Devices FCC Form 740 (per filing)	35.00
4. Ship Inspections	
a. Inspection of Oceangoing Vessels Under Title III, Part II of the Communications Act (per inspection).....	620.00



b. Inspection of Passenger Vessels Under Title III, Part III of the Communications Act (per inspection).....	320.00
c. Inspection of Vessels Under the Great Lakes Agreement (per inspection).....	360.00
d. Inspection of Foreign Vessels Under the Safety of Life at Sea (SOLAS) Convention (per inspection).....	540.00
e. Temporary Waiver for Compulsorily Equipped Vessel.....	60.00".

1           (2) *CONFORMING AMENDMENTS.*—Section 8 of  
2       *the Communications Act of 1934 (47 U.S.C. 158) is*  
3       *further amended—*

4           (A) *by striking the last sentence of subsec-*  
5       *tion (a); and*

6           (B) *in subsection (b)(1), by striking*  
7       *“April 1, 1987” and inserting in lieu thereof*  
8       *“October 1, 1991”.*

9       (b) *REVISION OF FINES AND PENALTIES.*—

10       (1) *DISCRIMINATION AND PREFERENCE BY*  
11       *COMMON CARRIER.*—Section 202 of the *Communica-*  
12       *tions Act of 1934 (47 U.S.C. 202) is amended—*

13           (A) *by striking “\$500” and inserting in lieu*  
14       *thereof “\$6,000”; and*

15           (B) *by striking “\$25” and inserting in lieu*  
16       *thereof “\$300”.*

17       (2) *FAILURE IN FILING OF SCHEDULE OF*  
18       *CHARGES.*—Section 203(e) of such Act (47 U.S.C.  
19       203(e)) *is amended—*

20           (A) *by striking “\$500” and inserting in lieu*  
21       *thereof “\$6,000”; and*

1           (B) by striking “\$25” and inserting in lieu  
2           thereof “\$300”.

3           (3) *NONCOMPLIANCE WITH RATE ORDERS.*—  
4           Section 205(b) of such Act (47 U.S.C. 205(b)) is  
5           amended by striking “\$1,000” and inserting in lieu  
6           thereof “\$12,000”.

7           (4) *NONCOMPLIANCE WITH LINE EXTENSION*  
8           *ORDERS.*—Section 214(d) of such Act (47 U.S.C.  
9           214(d)) is amended by striking “\$100” and inserting  
10          in lieu thereof “\$1,200”.

11          (5) *FAILURE TO FILE REPORTS OR INFORMA-*  
12          *TION.*—Section 219(b) of such Act (47 U.S.C. 219(b))  
13          is amended by striking “\$100” and inserting in lieu  
14          thereof “\$1,200”.

15          (6) *RECORDKEEPING FAILURES.*—Section  
16          220(d) of such Act (47 U.S.C. 220(d)) is amended by  
17          striking “\$500” and inserting in lieu thereof  
18          “\$6,000”.

19          (7) *NONCOMPLIANCE WITH SHIPBOARD RADIO*  
20          *REQUIREMENTS.*—Section 364 of such Act (47  
21          U.S.C. 364) is amended—

22                (A) by striking “\$500” in subsection (a) and  
23                inserting in lieu thereof “\$5,000”; and

24                (B) by striking “\$100” in subsection (b)  
25                and inserting in lieu thereof “\$1,000”.

1           (8) *NONCOMPLIANCE WITH PASSENGER VESSEL*  
2           *RADIO REQUIREMENTS.*—Section 386 of such Act (47  
3           U.S.C. 386) is amended—

4                     (A) by striking “\$500” in subsection (a) and  
5                     inserting in lieu thereof “\$5,000”; and

6                     (B) by striking “\$100” in subsection (b)  
7                     and inserting in lieu thereof “\$1,000”.

8           (9) *GENERAL FORFEITURES.*—Section 503(b) of  
9           such Act (47 U.S.C. 503(b)) is amended—

10                    (A) by inserting “(1)” immediately after  
11                    “(b)”; and

12                    (B) by striking paragraph (2) and inserting  
13                    in lieu thereof the following:

14                    “(2)(A) If the violator is (i) a broadcast station  
15                    licensee or permittee, (ii) a cable television operator, or  
16                    (iii) an applicant for any broadcast or cable television  
17                    operator license, permit, certificate, or other instrument  
18                    or authorization issued by the Commission, the amount  
19                    of any forfeiture penalty determined under this section  
20                    shall not exceed \$25,000 for each violation or each day  
21                    of a continuing violation, except that the amount as-  
22                    sessed for any continuing violation shall not exceed a  
23                    total of \$250,000 for any single act or failure to act  
24                    described in paragraph (1) of this subsection.

1           “(B) If the violator is a common carrier subject to  
2     the provisions of this Act or an applicant for any  
3     common carrier license, permit, certificate, or other in-  
4     strument of authorization issued by the Commission,  
5     the amount of any forfeiture penalty determined under  
6     this subsection shall not exceed \$100,000 for each  
7     violation or each day of a continuing violation, except  
8     that the amount assessed for any continuing violation  
9     shall not exceed a total of \$1,000,000 for any single  
10    act or failure to act described in paragraph (1) of this  
11    subsection.

12           “(C) In any case not covered in subparagraph  
13    (A) or (B), the amount of any forfeiture penalty deter-  
14    mined under this subsection shall not exceed \$10,000  
15    for each violation or each day of a continuing viola-  
16    tion, except that the amount assessed for any continu-  
17    ing violation shall not exceed a total of \$75,000 for  
18    any single act or failure to act described in paragraph  
19    (1) of this subsection.

20           “(D) The amount of such forfeiture penalty shall  
21    be assessed by the Commission, or its designee, by  
22    written notice. In determining the amount of such a  
23    forfeiture penalty, the Commission or its designee shall  
24    take into account the nature, circumstances, extent,  
25    and gravity of the violation and, with respect to the vi-

1        *olator, the degree of culpability, any history of prior of-*  
 2        *fenses, ability to pay, and such other matters as justice*  
 3        *may require.”.*

4        (c) *EFFECTIVE DATE; IMPLEMENTATION.—The*  
 5        *amendments made by this section shall take effect on the date*  
 6        *of enactment of this section, and the Schedule of Charges*  
 7        *required by the amendment made by subsection (a) of this*  
 8        *subsection shall be implemented not later than 150 days after*  
 9        *such date of enactment.*

10    **SEC. 302. INTERNATIONAL DEPARTURE FEES.**

11        (a) *ESTABLISHMENT OF COMMERCIAL AVIATION*  
 12        *FEE.—*

13                (1) *IN GENERAL.—The Secretary of Transporta-*  
 14        *tion shall establish, assess, and collect a fee, which*  
 15        *shall be imposed as of October 1, 1989, for each pas-*  
 16        *senger on commercial aircraft departing the United*  
 17        *States on international flights during fiscal year 1990.*

18                (2) *AMOUNT OF FEE.—The amount of a fee*  
 19        *under this section is \$3 per passenger on each flight*  
 20        *with respect to which the fee is assessed.*

21                (3) *DEPOSIT OF FEES.—Amounts received by the*  
 22        *United States Government under this subsection shall*  
 23        *be deposited in the general fund of the Treasury as off-*  
 24        *setting receipts of the Department of Transportation*  
 25        *and ascribed to the activities of the Department of*

1     *Transportation (including the Federal Aviation Ad-*  
 2     *ministration) involving the monitoring and regulation*  
 3     *of international air transportation operations, includ-*  
 4     *ing air traffic control operations, aviation security and*  
 5     *safety inspections, and activities associated with par-*  
 6     *ticipation in the International Civil Aviation Organi-*  
 7     *zation.*

8             (4) *REGULATIONS.*—*The Secretary of Transpor-*  
 9     *tation shall prescribe regulations implementing this*  
 10    *subsection not later than 60 days after the date of en-*  
 11    *actment of this subsection.*

12    (b) *ESTABLISHMENT OF PASSENGER VESSEL FEE.*—

13             (1) *IN GENERAL.*—*Chapter 35 of title 46, United*  
 14    *States Code, is amended by adding at the end the fol-*  
 15    *lowing new section:*

16    ***“§ 3507. Passenger vessel fee***

17             “(a) *The Secretary shall establish, assess, and collect a*  
 18    *fee, which shall be imposed as of October 1, 1989, for each*  
 19    *covered voyage during fiscal year 1990 of—*

20             “(1) *a passenger vessel having berth or stateroom*  
 21    *accommodations for more than 16 passengers that is on*  
 22    *a voyage that extends over 1 or more nights, except a*  
 23    *vessel that is—*

24             “(A) *on a voyage of less than 12 hours be-*  
 25    *tween 2 points in the United States; or*

1                   “(B) owned and operated by a State or a po-  
2                   litical subdivision of a State; or

3                   “(2) a vessel transporting passengers engaged in  
4                   gambling aboard the vessel beyond the territorial sea of  
5                   the United States.

6                   “(b)(1) Subject to paragraph (2) of this subsection, the  
7                   amount of a fee under this section is \$3 for each passenger on  
8                   a vessel for a covered voyage with respect to which the fee is  
9                   assessed. Such fee shall be assessed only once for each pas-  
10                  senger on a covered voyage, either when such passenger first  
11                  embarks in the United States or when the passenger first  
12                  disembarks in the United States.

13                  “(2) The Secretary shall reduce a fee under this section  
14                  for a covered voyage of a vessel in an amount equal to—

15                         “(A) the amount for which the person from whom  
16                         the fee is collected is liable with respect to that voyage  
17                         under section 4461 of the Internal Revenue Code of  
18                         1986 (26 U.S.C. 4461), relating to harbor mainte-  
19                         nance tax; plus

20                         “(B) an amount, to be determined by the Secre-  
21                         tary, representing fees for which that person is liable  
22                         for inspections of the vessel performed by the Coast  
23                         Guard.

1       “(c) A fee under this section may be collected from an  
2 owner, operator, or person in charge of a vessel for a covered  
3 voyage with respect to which the fee is assessed.

4       “(d) Of amounts received by the United States Govern-  
5 ment under this section—

6               “(1) two-thirds shall be deposited as offsetting re-  
7 ceipts into the Harbor Maintenance Trust Fund estab-  
8 lished by section 9505 of the Internal Revenue Code of  
9 1986 (26 U.S.C. 9505); and

10              “(2) one-third shall be deposited into the general  
11 fund of the Treasury as offsetting receipts of the de-  
12 partment in which the Coast Guard is operating and  
13 ascribed to Coast Guard activities.

14       “(e) In this section, ‘covered voyage’ means a voyage of  
15 a passenger vessel during which passengers of the vessel  
16 embark or disembark the vessel in the United States.”.

17              (2) *REGULATIONS.*—The Secretary of the depart-  
18 ment in which the Coast Guard is operating shall pre-  
19 scribe regulations implementing section 3507 of title  
20 46, United States Code, as added by this subsection,  
21 not later than 60 days after the date of enactment of  
22 this subsection.

23              (3) *CLERICAL AMENDMENT.*—The table of sec-  
24 tions at the beginning of chapter 35 of title 46, United



1       *States Code, is amended by adding at the end the*  
 2       *following:*

*"3507. Passenger vessel fee."*

3               (4)       *CONFORMING        AMENDMENT.—Section*  
 4       *9505(a) of the Internal Revenue Code of 1986 (26*  
 5       *U.S.C. 9505(a)), relating to the Harbor Maintenance*  
 6       *Trust Fund, is amended—*

7               (A) *in paragraph (2) by striking “, or” and*  
 8               *inserting in lieu thereof a comma;*

9               (B) *in paragraph (3) by striking the period*  
 10              *at the end and inserting in lieu thereof “, or”;*  
 11              *and*

12              (C) *by adding at the end the following new*  
 13              *paragraph:*

14              *“(4) deposited into the Harbor Maintenance Trust*  
 15       *Fund under section 3507(d)(1) of title 46, United*  
 16       *States Code (relating to passenger vessel fee).”*

17   **SEC. 303. COAST GUARD USER FEES.**

18       (a) *IN GENERAL.—Notwithstanding the provisions of*  
 19       *section 2110 of title 46, United States Code, the Secretary of*  
 20       *the department in which the Coast Guard is operating (here-*  
 21       *inafter in this section referred to as the “Secretary”) shall*  
 22       *establish and implement a system for the collection, com-*  
 23       *mencing October 1, 1989, of \$50,000,000 in fiscal year*  
 24       *1990 in receipts from payments by users of services provided*  
 25       *by the Coast Guard, other than services associated with*

1 *emergency search and rescue. Amounts received by the*  
2 *United States Government under this section shall be depos-*  
3 *ited into the general fund of the Treasury as offsetting re-*  
4 *ceipts of the department in which the Coast Guard is operat-*  
5 *ing and ascribed to Coast Guard activities.*

6       **(b) REGULATIONS.**—*The Secretary shall, by Octo-*  
7 *ber 1, 1989, issue regulations to carry out the provisions of*  
8 *subsection (a) of this section. Such regulations shall include*  
9 *a schedule of fees which shall be established in accordance*  
10 *with the provisions of section 9701 of title 31, United States*  
11 *Code.*

12       **(c) APPLICABILITY.**—

13               **(1) PAYMENTS FROM STAMPS AND FEES.**—*The*  
14 *system established and implemented under subsection*  
15 *(a) of this section shall include collections of payments*  
16 *from—*

17                       **(A)** *the sale of Support of Services Stamps,*  
18 *possession of which will entitle the holder of such*  
19 *Stamps to specified services without charge; and*

20                       **(B)** *fees to be charged to users of such speci-*  
21 *fied services who have not purchased such a Sup-*  
22 *port of Services Stamp.*

23               **(2) CONSIDERATION OF PAYMENTS FOR CER-**  
24 **TAIN COAST GUARD SERVICES.**—*In developing such*  
25 *system and issuing regulations under this section, the*

1        *Secretary shall consider collection of receipts from pay-*  
 2        *ments for non-emergency search and rescue, as well as*  
 3        *other services provided by the Coast Guard.*

4        *(d) MINIMIZATION OF ADVERSE EFFECTS ON MARI-*  
 5        *TIME INDUSTRY.—The Secretary shall, to the maximum*  
 6        *extent practicable, ensure that such system minimizes ad-*  
 7        *verse economic effects upon commercial towing services and*  
 8        *other segments of the maritime industry.*

9        *(e) REPORT.—The Secretary shall report to the Con-*  
 10       *gress on or before September 1, 1989, regarding activities*  
 11       *undertaken to establish and implement such system and on or*  
 12       *before September 1, 1990, regarding the implementation and*  
 13       *effects of such system.*

14       *(f) DISCLAIMER.—Nothing in this section shall alter or*  
 15       *expand the duties and liability of the United States under*  
 16       *existing law for the performance of functions for which fees*  
 17       *or payments are collected. The collection of such fees or pay-*  
 18       *ments shall not constitute an express or implied undertaking*  
 19       *by the United States to perform any service or activity in a*  
 20       *certain manner or to provide any service at a particular time*  
 21       *or place.*

22       **SEC. 304. AIRPORT SLOT FEES.**

23       *(a) IN GENERAL.—The Secretary of Transportation*  
 24       *shall, within 180 days after the date of enactment of this*  
 25       *section, establish a schedule of fees to be collected—*

1           (1) for each slot issued by the Federal Aviation  
2       Administration on behalf of the Federal Government  
3       and held by an air carrier, other than a commuter op-  
4       erator, at high density traffic airports; and

5           (2) to the extent consistent with international law  
6       and treaty obligations of the United States, for each  
7       such slot held by a foreign air carrier at such airports.  
8       Such fees shall reasonably reflect the value of each such slot  
9       to its holder. The total amount of fees collected under this  
10      schedule shall be at least \$239,000,000 for fiscal year 1990.

11      (b) *DEPOSIT OF FEES.*—The fees collected under these  
12      provisions shall be deposited in the general fund of the Treas-  
13      ury as offsetting receipts of the Federal Aviation Adminis-  
14      tration.

15      (c) *REGULATIONS.*—The Secretary shall prescribe ap-  
16      propriate regulations to carry out the provisions of this  
17      section.

18      (d) *DEFINITION.*—As used in this section—

19           (1) the terms “air carrier” and “foreign air car-  
20       rier” have the meanings given such terms, respectively,  
21       in section 101 of the Federal Aviation Act of 1958 (49  
22       App. U.S.C. 1301); and

23           (2) the term “high density traffic airports” means  
24       airports so designated in subpart K of part 93 of title

1       14, Code of Federal Regulations, as in effect on the  
2       date of enactment of this section.

3       **TITLE IV—ENVIRONMENT AND**  
4       **PUBLIC WORKS**

5       **Subtitle A—Atmospheric Pollution Fees**

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6       SHORT TITLE

7       SEC. 4001. This subtitle may be cited as the “Strato-  
8       spheric Ozone and Climate Protection Act of 1989”.

9       FINDINGS

10       SEC. 4002. The Congress finds that—

11               (1) the best available scientific evidence shows  
12       that manufactured substances, including chlorofluoro-  
13       carbons and other substances covered by this subtitle,  
14       are destroying stratospheric ozone, and significantly  
15       contributing to global climate change by enhancing  
16       the greenhouse effect and causing other atmospheric  
17       modifications;

1           (2) no level of stratospheric ozone depletion or  
2           global climate change caused by human activities can  
3           be deemed safe;

4           (3) stratospheric ozone depletion will lead to in-  
5           creased incidence of solar ultraviolet radiation in the  
6           troposphere and at the surface of the Earth;

7           (4) increased incidence of solar ultraviolet radi-  
8           ation will cause increased rates of disease in humans  
9           (including increased rates of skin cancer, cataracts,  
10          and, potentially, suppression of the immune system),  
11          threaten food crops and marine resources, and other-  
12          wise damage the natural environment;

13          (5) the Ozone Trends Report completed in March  
14          1988 through the effort of over one hundred interna-  
15          tional scientists found undisputed observational evi-  
16          dence that the atmospheric concentrations of source  
17          gases important in controlling stratospheric ozone levels  
18          and aggravating the problem of uncontrolled global cli-  
19          mate change (chlorofluorocarbons, halons, methane, ni-  
20          trous oxide, and carbon dioxide) are increasing on a  
21          global scale as a result of human activities;

22          (6) scientific expeditions and analyses have estab-  
23          lished that chlorine compounds derived from emissions  
24          of chlorofluorocarbons are responsible for destruction of

1        *the stratospheric ozone layer over the Antarctic and the*  
2        *surrounding oceans;*

3            *(7) recent scientific reports indicate that a similar*  
4        *destruction of the ozone layer may occur over the*  
5        *Arctic region and that the same chlorine compounds*  
6        *found in the Antarctic region are present in areas of*  
7        *the Arctic ozone layer;*

8            *(8) experimental laboratory studies and measure-*  
9        *ments of ozone depletion suggest that the chemical reac-*  
10       *tions responsible for destruction of ozone over Antarcti-*  
11       *ca could operate in the aerosol layer of the stratosphere*  
12       *and would not be limited to the polar regions;*

13           *(9) the Montreal Protocol on Substances that De-*  
14       *plete the Ozone Layer (the Montreal Protocol) provides*  
15       *a framework for all nations of the world to protect the*  
16       *Earth's ozone shield;*

17           *(10) the control measures that are set forth in the*  
18       *Montreal Protocol (a freeze on the consumption of cer-*  
19       *tain chlorofluorocarbons at 1986 levels in 1989 fol-*  
20       *lowed by a 20 per centum reduction in 1993 and an*  
21       *additional 30 per centum reduction in 1998, coupled*  
22       *with a freeze on the consumption of certain halons at*  
23       *1986 levels in 1992) will allow atmospheric concentra-*  
24       *tions of chlorine to increase by more than a factor of*  
25       *two;*

1           (11) *restrictions on the production and use of*  
2           *chlorofluorocarbons and halons, as required under the*  
3           *Montreal Protocol and by Environmental Protection*  
4           *Agency regulations, will reduce the supply and in-*  
5           *crease the price of these chemicals, and that increased*  
6           *prices will provide unwarranted, excess rates of return*  
7           *to producers, importers and distributors of these chemi-*  
8           *cals which may, absent payment to the Government as*  
9           *fees in exchange for limited production, importation*  
10          *and distribution rights, provide a disincentive for the*  
11          *introduction of substitute chemicals to replace chloro-*  
12          *fluorocarbons and other substances covered by this sub-*  
13          *title;*

14          (12) *in exchange for the limited rights to produce*  
15          *or import chlorofluorocarbons and other ozone depleting*  
16          *substances, the Government should charge fees ap-*  
17          *proximating the market value of such limited rights*  
18          *and use such fees to offset Government expenses asso-*  
19          *ciated with implementation of regulatory restrictions, to*  
20          *supplement other regulations and controls applicable to*  
21          *such substances, and for the benefit of the public;*

22          (13) *because of the worldwide recognition of the*  
23          *need to reduce significantly the use of ozone-depleting*  
24          *chemicals, United States chemical producers and chloro-*  
25          *fluorocarbon and halon user industries should be en-*



1       *couraged to develop improved chemicals, products, and*  
2       *technologies that do not rely on chlorofluorocarbons and*  
3       *halons;*

4               *(14) the Ozone Trends Report and other recent*  
5       *scientific studies have raised serious questions about*  
6       *the adequacy of the control measures that are set forth*  
7       *in the Montreal Protocol;*

8               *(15) ozone depleting chlorofluorocarbons are also*  
9       *powerful greenhouse gases projected to be responsible*  
10       *for 15 to 25 per centum of global warming and, under*  
11       *the existing Montreal Protocol, 10 per centum of future*  
12       *warming;*

13               *(16) stratospheric ozone depletion and global cli-*  
14       *mate change from continued emissions of chlorofluoro-*  
15       *carbons and other halogenated chlorocarbons with ozone*  
16       *depleting potential, and emissions of other gases, such*  
17       *as methane and carbon dioxide, imperil human health*  
18       *and the environment worldwide;*

19               *(17) in order to stabilize and eventually reduce*  
20       *concentrations of chlorine and bromine in the strato-*  
21       *sphere, to conserve the stratospheric ozone layer (an ex-*  
22       *haustible natural resource), and to reduce the extent of*  
23       *global climate change—*

24               *(A) emissions of chlorofluorocarbons and*  
25       *other substances covered by this subtitle, including*

1           *halogenated carbons with ozone depleting poten-*  
2           *tial, should be terminated rapidly;*

3           *(B) it is necessary to control international*  
4           *trade in substances covered by this subtitle and*  
5           *products containing such substances; and*

6           *(C) emissions of other gases, such as meth-*  
7           *ane and carbon dioxide, should be controlled;*

8           *(18) the highest priority must be given to develop-*  
9           *ing and deploying safe and energy efficient products*  
10          *and technologies as substitutes for ozone depleting sub-*  
11          *stances as rapidly as possible; and*

12          *(19) the United States needs to develop and*  
13          *deploy safe, energy efficient substitutes to replace ozone*  
14          *depleting substances in order to demonstrate to the*  
15          *world its commitment to protect the stratosphere and to*  
16          *limit global climate change.*

17                   *OBJECTIVES AND NATIONAL GOAL*

18          *SEC. 4003. (a) The objectives of this subtitle are to re-*  
19          *store and maintain the chemical and physical integrity of the*  
20          *Earth's atmosphere, to protect human health and the global*  
21          *environment from all known and potential dangers due to*  
22          *atmospheric or climatic modification, including stratospheric*  
23          *ozone depletion, to provide for a smooth transition from the*  
24          *use of ozone-depleting chemicals to the use of safe chemicals,*  
25          *products, and technologies that do not threaten the ozone*  
26          *layer, and to reduce the generation of greenhouse gases in*

1 *order to protect the Earth's ozone layer and to limit anthropo-*  
2 *genically induced global climate changes by—*

3           (1) *reducing significantly the production and*  
4 *emission into the atmosphere of pollutants caused by*  
5 *human activities,*

6           (2) *promoting the rapid development and deploy-*  
7 *ment of energy efficient alternatives to the use of chlor-*  
8 *ofluorocarbons and other substances covered by this*  
9 *subtitle,*

10           (3) *assuring that such alternatives reduce ozone*  
11 *depleting potential to the maximum extent possible*  
12 *and, at the same time, do not exacerbate the problem of*  
13 *human induced global climate change either directly as*  
14 *radiatively important trace gases or indirectly as sub-*  
15 *stances that reduce the energy efficiency of products*  
16 *which incorporate or use such substances, and*

17           (4) *promoting additional scientific research on at-*  
18 *mospheric or climatic modification, including strato-*  
19 *spheric ozone depletion, and on the known and poten-*  
20 *tial adverse effects therefrom on human health and the*  
21 *global environment.*

22           (b) *In order to achieve the objectives of this subtitle, it is*  
23 *the national goal to eliminate atmospheric emissions of man-*  
24 *ufactured substances with ozone depleting potential as well as*  
25 *direct and indirect global warming potential, including chlor-*

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1        *lecular identity, or any mixture, that has been manu-*  
2        *factured for commercial purposes;*

3            (6) “medical purposes” means medical devices  
4        *and diagnostic products (including drugs, as defined in*  
5        *the Federal Food, Drug, and Cosmetic Act (21 U.S.C.*  
6        *321) and drug delivery systems) (A) for which no safe*  
7        *substitute has been developed and (B) which, after*  
8        *notice and opportunity for public comment, has been*  
9        *approved and determined to be essential by the Com-*  
10       *missioner of the Food and Drug Administration, in*  
11       *consultation with the Administrator;*

12           (7) “ozone-depleting chemicals” refers to those  
13        *chemicals listed under section 4011 of this subtitle;*

14           (8) “person” means an individual, corporation  
15        *(including a government corporation), partnership,*  
16        *firm, joint stock company, trust, association, or any*  
17        *other entity, or any officer, employee, agent, depart-*  
18        *ment, or instrumentality of the Federal Government, of*  
19        *any State or political subdivision thereof (including*  
20        *any interstate body), or of any foreign government (in-*  
21        *cluding any international instrumentality);*

22           (9) “producer” means the manufacturer of ozone-  
23        *depleting chemicals subject to production, importation*  
24        *and distribution fees under this subtitle;*

1           (10) "Secretary" means the Secretary of the  
2       Treasury; and

3           (11) "substances covered by this subtitle" means  
4       those substances which are known or may reasonably  
5       be anticipated to cause or contribute to atmospheric or  
6       climatic modification, including stratospheric ozone de-  
7       pletion, and are listed under subsections (a) or (b) of  
8       section 4005 of this subtitle.

9       OFFSET OF GOVERNMENT EXPENSES ASSOCIATED WITH  
10      IMPLEMENTATION OF REGULATORY CONTROLS AND  
11      IMPOSITION OF PRODUCTION, IMPORTATION AND  
12      DISTRIBUTION FEES ON OZONE-DEPLETING CHEMI-  
13      CALS

14                               IMPOSITION OF FEES

15      SEC. 4011. (a)(1) Within sixty days following the date  
16      of the enactment of this subtitle, the Administrator shall issue  
17      such regulations as may be necessary to impose production,  
18      importation and distribution fees, commencing with the effec-  
19      tive date provided by the following table, on producers, im-  
20      porters and distributors of the following chemicals:

Ozone-Depleting Chemical	Effective Date
Trichlorofluoromethane (CFC-11).....	July 1, 1989
Dichlorodifluoromethane (CFC-12).....	July 1, 1989
Trichlorotrifluoroethane (CFC-113).....	July 1, 1989
Dichlorotetrafluoroethane (CFC-114).....	July 1, 1989
(Mono) chloropentafluoroethane (CFC-115).....	July 1, 1989
Bromochlorodifluoroethane (Halon 1211).....	January 1, 1992
Bromotrifluoroethane (Halon 1301).....	January 1, 1992
Dibromotetrafluoroethane (Halon 2402).....	January 1, 1992.

1        *Ozone-depleting chemicals that have been recovered and*  
2        *recycled shall not be subject to the production, importation*  
3        *and distribution fees established under this subtitle.*

4        (2) *Such regulations shall include and establish the*  
5        *1987 average sales price charged by producers, importers and*  
6        *distributors for each ozone-depleting chemical subject to a*  
7        *production, importation and distribution fee under this sub-*  
8        *title. To reflect changes in production, importation and distri-*  
9        *bution costs, the Administrator shall publish, on April 1,*  
10       *1991 and on April 1 of each calendar year thereafter, an*  
11       *annual adjustment to such 1987 average sales prices. The*  
12       *adjustment shall reflect an amount indicated by (A) the pro-*  
13       *ducer price index for basic inorganic chemicals (published by*  
14       *the Department of Labor) for the period covered by the pre-*  
15       *ceding calendar year and (B) other appropriate measure-*  
16       *ments established in regulations promulgated by the Admin-*  
17       *istrator.*

18       (b)(1) *BASE FEE.—Each person producing or import-*  
19       *ing an ozone depleting chemical subject to a production, im-*  
20       *portation and distribution fee under this subtitle shall be re-*  
21       *quired to pay, on a quarterly basis, for the right to produce or*  
22       *import such chemical. Such fee shall be an amount equal to*  
23       *sixty cents per pound of such chemical produced or imported*  
24       *by such person during the preceding three months.*

1       (2) *ALTERNATIVE FEE.*—*The production, importation*  
2 *and distribution fees established and due under this subtitle*  
3 *shall be the greater of (A) an amount equal to the base fee*  
4 *established under paragraph (1) of this subsection; or (B) an*  
5 *amount equal to each producer's, importer's and distributor's*  
6 *share of the total revenues collected by all such producers,*  
7 *importers and distributors and attributable to sales of each*  
8 *ozone-depleting chemical subject to a production, importation*  
9 *and distribution fee less (i) an allowance equal to the reve-*  
10 *nues that such sales would have generated at the 1987 aver-*  
11 *age sales price for each such chemical, as determined and*  
12 *adjusted by the Administrator in accordance with the preced-*  
13 *ing subsection, and (ii) an amount equal to Federal and*  
14 *State income taxes due and payable on such revenues by*  
15 *such producer, importer or distributor. For purposes of com-*  
16 *puting the fee due and payable by a distributor under sub-*  
17 *paragraph (B) of this paragraph, the amount equal to such*  
18 *distributor's share of total revenues collected shall, in addi-*  
19 *tion to the adjustments referred to in clauses (i) and (ii), be*  
20 *offset by an amount equal to sixty cents per pound of each*  
21 *ozone depleting chemical subject to a production, importation*  
22 *and distribution fee and sold by such distributor.*

23       (3) *Within sixty days following the date of enactment of*  
24 *this subtitle, the Administrator, in consultation with the Sec-*  
25 *retary, shall issue such regulations as may be necessary to*



1 collect the production, importation and distribution fees es-  
2 tablished by this subtitle, including requirements for pay-  
3 ment, on a quarterly basis, of such fees by producers, import-  
4 ers and distributors of ozone-depleting chemicals subject to  
5 such production, importation and distribution fees. The im-  
6 portation fees established by this subtitle shall be due and  
7 payable by the importer of record as listed on United States  
8 Custom Form 7501.

9 (c) The Administrator may promulgate regulations  
10 adding to the list of ozone-depleting chemicals subject to the  
11 production, importation and distribution fees referred to in  
12 subsection (a), any chemical that is known or can reasonably  
13 be anticipated to cause or contribute to stratospheric ozone  
14 depletion and is subject to regulatory controls that limit, on a  
15 chemical specific basis, production and importation. The Ad-  
16 ministrator shall also promulgate regulations to accelerate the  
17 effective dates in subsection (a) if such changes are necessary  
18 to protect public health and the environment and are in fur-  
19 therance of the goal and objectives of this subtitle as set forth  
20 in section 4003.

21 (d) In promulgating regulations under this section, the  
22 Administrator shall take such action as may be necessary,  
23 consistent with the purposes of this section, to assure that no  
24 production, importation and distribution fee shall be imposed  
25 under this subtitle on any ozone-depleting chemical that is

1 *used and entirely consumed in the production of other ozone*  
2 *depleting chemicals that are subject to production, importa-*  
3 *tion and distribution fees under this subtitle.*

4       (e) *Any person exporting an ozone-depleting chemical*  
5 *subject to a production, importation and distribution fee es-*  
6 *tablished by this subtitle may apply to the Administrator for*  
7 *a refund of fees paid by such person and attributable to the*  
8 *quantity of such ozone-depleting chemical that such person*  
9 *exported during the assessment period to a developing coun-*  
10 *try that is a party to the Montreal Protocol on Substances*  
11 *that Deplete the Ozone Layer and is subject to Article 5 of*  
12 *such Protocol. Applications for refunds must be submitted to*  
13 *the Administrator for approval within thirty days after the*  
14 *end of the applicable assessment period. The Administrator*  
15 *shall review the request for a refund and notify both the re-*  
16 *quester and the Secretary within sixty days of the approval*  
17 *or denial of such requests. Requests for refunds approved by*  
18 *the Administrator shall be paid by the Secretary.*

19 **OFFSETTING GOVERNMENT EXPENSES ASSOCIATED WITH**  
20 **IMPLEMENTATION OF REGULATORY CONTROLS AND**  
21 **SUPPORT FOR ACTIVITIES RELATED TO ALTERNA-**  
22 **TIVES TO OZONE-DEPLETING CHEMICALS**

23 *SEC. 4012. All moneys received pursuant to this sub-*  
24 *title for any assessment year shall be deposited as offsetting*  
25 *receipts in the Ozone Layer and Climate Protection Trust*  
26 *Fund established by section 4013 of this subtitle.*

## TRUST FUND

1

2       *SEC. 4013. (a) There is established in the Treasury of*  
3 *the United States a trust fund to be known as the “Ozone*  
4 *Layer and Climate Protection Trust Fund” (referred to in*  
5 *this subtitle as the “Trust Fund”). The Trust Fund shall*  
6 *consist of such amounts as may be deposited in it as provided*  
7 *in this subtitle.*

8

9       *(b) Amounts in the Trust Fund shall be available, as*  
10 *provided by appropriation Acts, to implement the Montreal*  
11 *Protocol and this subtitle, to carry out the grant program*  
12 *abatement and control activities and the research and devel-*  
13 *opment activities of the Environmental Protection Agency.*

14

15       *(c)(1) It shall be the duty of the Secretary to report to*  
16 *the Congress each year on the financial condition and the*  
17 *results of the operation of the Trust Fund during the preced-*  
18 *ing fiscal year and on its expected condition and operations*  
19 *during the next five fiscal years.*

20

21       *(2) It shall be the duty of the Secretary to invest such*  
22 *portion of the Trust Fund as is not, in the Secretary’s judg-*  
23 *ment, required to meet current withdrawals. Such invest-*  
24 *ments may be made only in interest-bearing obligations of the*  
25 *United States. Such obligations may be acquired—*

26

27       *(A) as original issue at the issue price, or*

1           (B) by purchase of outstanding obligations at the  
2           market price.

3           (3) Any obligation acquired with moneys from such  
4           Trust Fund may be sold by the Secretary at market price.  
5           The interest on and the proceeds from the sale or redemption  
6           of such obligation shall be credited to and become a part of  
7           the Trust Fund.

8                   **Subtitle B—Nuclear Regulatory**  
9                   **Commission User Fees**

10           SEC. 4101. Section 7601 of the Consolidated Omnibus  
11           Budget Reconciliation Act of 1985 (COBRA) (Public Law  
12           99-272) is amended to read as follows:

13                   “(1) IN GENERAL.—The Nuclear Regulatory  
14           Commission shall assess and collect annual charges  
15           from its licensees on a fiscal year basis, except that—

16                           “(A) the maximum amount of the aggregate  
17           charges assessed pursuant to this paragraph in  
18           any fiscal year may not exceed an amount that,  
19           when added to other amounts collected by the  
20           Commission for such fiscal year under other pro-  
21           visions of law, is estimated to be equal to 33 per  
22           centum of the costs incurred by the Commission  
23           with respect to such fiscal year, except that for  
24           fiscal year 1990 such maximum amount shall be  
25           estimated to be equal to 45 per centum of the costs

1           incurred by the Commission for fiscal year 1990;  
2           and

3           “(B) any such charge assessed pursuant to  
4           this paragraph shall be reasonably related to the  
5           regulatory service provided by the Commission  
6           and shall fairly reflect the cost to the Commission  
7           of providing such service.

8           “(2) ESTABLISHMENT OF AMOUNT BY RULE.—  
9           The amount of the charges assessed pursuant to this  
10          paragraph shall be established by rule.”.

11       ***Subtitle C—Payments to the Offshore***  
12       ***Oil Pollution Compensation Fund***

13       SEC. 4201. (a) IN GENERAL.—(1) Section 302(d)(1)  
14       of the Outer Continental Shelf Lands Act Amendments of  
15       1978 (43 U.S.C. 1812(d)(1)) is amended by striking out  
16       “not to exceed”.

17       (2) Section 302(d)(2) of the Outer Continental Shelf  
18       Lands Act Amendments of 1978 (43 U.S.C. 1812(d)(2)) is  
19       amended by striking out “not less than \$100,000,000 and  
20       not more than” and adding in lieu thereof “not more than or  
21       less than”.

22       (b) EFFECTIVE DATE.—The amendment made by this  
23       section shall take effect on the date of enactment of this Act.

1 ***Subtitle D—Onondaga Lake Restoration***  
 2 ***Program***

3 ***SEC. 4301. ARMY CORPS OF ENGINEERS.***

4 *The Secretary of the Army, acting through the Chief of*  
 5 *Engineers, shall carry out a reconnaissance study for an en-*  
 6 *vironmental restoration project for Onondaga Lake as au-*  
 7 *thorized by Committee Resolution \_\_\_\_\_, as adopted by the*  
 8 *Senate Environment and Public Works Committee on July*  
 9 *9, 1989, and shall, to the degree that matching funds are*  
 10 *available, carry out the feasibility study for such project as*  
 11 *authorized by such Committee Resolution.*

12 ***TITLE V—NON-REVENUE PROVI-***  
 13 ***SIONS OF THE COMMITTEE ON***  
 14 ***FINANCE***

15 ***SEC. 5000. AMENDMENT OF THE SOCIAL SECURITY ACT; TABLE***  
 16 ***OF CONTENTS.***

17 ***(a) AMENDMENT OF THE SOCIAL SECURITY ACT.—***  
 18 *Except as otherwise expressly provided, whenever in this title*  
 19 *an amendment or repeal is expressed in terms of an amend-*  
 20 *ment to, or repeal of, a section or other provision, the refer-*  
 21 *ence shall be considered to be made to a section or other pro-*  
 22 *vision of the Social Security Act.*

23 ***(b) TABLE OF CONTENTS.—***

***TITLE V—NON-REVENUE PROVISIONS OF THE COMMITTEE ON***  
***FINANCE***

*Sec. 5000. Amendment of the Social Security Act; table of contents.*

*Subtitle A—Medicare**PART I—PROVISIONS RELATING TO PART A OF MEDICARE**Sec. 5101. Prospective payment hospitals.**Sec. 5102. Reduction in indirect medical education payments.**Sec. 5103. Reduction in payments for capital-related costs of inpatient hospital services for fiscal year 1990.**PART II—PROVISIONS RELATING TO PART B OF MEDICARE**SUBPART A—PAYMENT FOR PHYSICIANS' SERVICES**Sec. 5201. Updating payments for physicians' services.**Sec. 5202. Reduction in payments for certain overvalued procedures.**Sec. 5203. Reduction in payments for radiology services.**Sec. 5204. Anesthesia services.**SUBPART B—PAYMENT FOR OTHER SERVICES**Sec. 5221. Clinical diagnostic laboratory services.**Sec. 5222. Durable medical equipment.**Sec. 5223. Payments for capital for hospital outpatient services.**PART III—PROVISIONS RELATING TO PARTS A AND B OF MEDICARE**Sec. 5301. Delay in payments in fiscal year 1990.**Sec. 5302. Medicare as secondary payer.**PART IV—MEDICARE PART B BASIC PREMIUM**Sec. 5401. One-year extension of part B premium minimum.**Subtitle B—Medicaid**Sec. 5501. Miscellaneous Medicaid provisions.**Subtitle C—Income Security**Sec. 5601. Proposed amendments to authorize the offset of unpaid contributions from unemployment compensation (with technical amendments).*

- 1                                    ***Subtitle A—Medicare***
- 2                    ***PART I—PROVISIONS RELATING TO PART A OF***
- 3                                    ***MEDICARE***
- 4    ***SEC. 5101. PROSPECTIVE PAYMENT HOSPITALS.***
- 5            *Section            1886(b)(3)(B)(i)            (42            U.S.C.*
- 6    *1395ww(b)(3)(B)(i)) is amended—*
- 7                    *(1) by striking “and” at the end of subclause*
- 8                    *(IV);*

1           (2) in subclause (V), by striking “1990” and in-  
 2           serting in lieu thereof “1991” and redesignating such  
 3           subclause as subclause (VI); and

4           (3) by inserting after subclause (IV) the following  
 5           new subclause:

6           “(V) for fiscal year 1990, the market basket per-  
 7           centage increase plus 3 percentage points for hospitals  
 8           located in a rural area, the market basket percentage  
 9           increase minus 0.7 percentage points for hospitals lo-  
 10          cated in a large urban area, and the market basket per-  
 11          centage increase minus 1.4 percentage points for hospi-  
 12          tals located in other urban areas, and”.

13 **SEC. 5102. REDUCTION IN INDIRECT MEDICAL EDUCATION**  
 14 **PAYMENTS.**

15       (a) **INDIRECT MEDICAL EDUCATION PAYMENTS**  
 16 **REDUCED.—**

17           (1) Section 1886(d)(5)(B)(ii) of the Social Secu-  
 18           rity Act (42 U.S.C. 1395ww(d)(5)(B)(ii)) is  
 19           amended—

20               (A) in subclause (I), by striking “1.89” and  
 21               inserting in lieu thereof “1.752”; and

22               (B) in subclause (II), by striking “1.43”  
 23               and inserting in lieu thereof “1.329”.

24           (2) Section 1886(d)(3)(C)(ii) of such Act (42  
 25           U.S.C. 1395ww(d)(3)(C)(ii)) is amended—



1 (A) in subclause (I)—

2 (i) by striking “1985 and” and insert-  
3 ing in lieu thereof “1985,” and

4 (ii) by inserting “and by section 5102  
5 of the Omnibus Budget Reconciliation Act of  
6 1989” after “1987”; and

7 (B) in subclause (II)—

8 (i) by striking “1985 and” and insert-  
9 ing in lieu thereof “1985,” and

10 (ii) by inserting “and by section 5102  
11 of the Omnibus Budget Reconciliation Act of  
12 1989” after “1987”.

13 (b) *EFFECTIVE DATE.*—The amendments made by this  
14 section shall apply to payments for discharges occurring on  
15 or after October 1, 1989.

16 **SEC. 5103. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED**  
17 **COSTS OF INPATIENT HOSPITAL SERVICES FOR**  
18 **FISCAL YEAR 1990.**

19 Section 1886(g)(3)(A) of the Social Security Act (42  
20 U.S.C. 1395ww(g)(3)(A)) is amended—

21 (1) in clause (iii), by striking “and”;

22 (2) in clause (iv), by striking the period at the  
23 end and inserting “, and”; and

24 (3) by adding at the end the following new clause:

1           “(v) 13.5 percent for payments attributable to por-  
 2           tions of cost reporting periods or discharges (as the case  
 3           may be) occurring during fiscal year 1990 (excluding  
 4           such payments for such fiscal year for hospitals de-  
 5           scribed in section 1815(e)(1)(B)).”.

6           **PART II—PROVISIONS RELATING TO PART B OF**  
 7                                   **MEDICARE**

8                   **Subpart A—Payment for Physicians’ Services**

9           **SEC. 5201. UPDATING PAYMENTS FOR PHYSICIANS’ SERVICES.**

10           (a) *DELAYING MEI UPDATE UNTIL APRIL 1.*—

11                   (1) *IN GENERAL.*—Subject to the amendments  
 12           made by this section, any increase or adjustment in  
 13           prevailing or customary charges, fee schedule amounts,  
 14           maximum allowable actual charges, and other limits on  
 15           actual charges with respect to physicians’ services and  
 16           other items and services described in paragraph (2)  
 17           under part B of title XVIII of the Social Security Act  
 18           which would otherwise occur as of January 1, 1990,  
 19           shall be delayed so as to occur as of April 1, 1990,  
 20           and, notwithstanding any other provision of law, the  
 21           amount of payment under such part for such items and  
 22           services which are furnished during the period begin-  
 23           ning on January 1, 1990, and ending on March 31,  
 24           1990, shall be determined on the same basis as the

1     *amount of payment for such services furnished on*  
 2     *December 31, 1989.*

3             (2) *ITEMS AND SERVICES COVERED.—The items*  
 4     *and services described in this paragraph are items and*  
 5     *services (other than ambulance services) for which pay-*  
 6     *ment is made under part B of title XVIII of the*  
 7     *Social Security Act on the basis of reasonable charge*  
 8     *or on the basis of a fee schedule if the fee schedule is*  
 9     *subject to an annual adjustment based on the percent-*  
 10    *age increase in the MEI (as defined in section*  
 11    *1842(i)(3) of such Act).*

12            (3) *EXTENSION OF PARTICIPATION AGREE-*  
 13    *MENTS AND RELATED PROVISIONS.—Notwithstanding*  
 14    *any other provision of law—*

15                (A) *subject to the last sentence of this para-*  
 16    *graph, each participation agreement in effect on*  
 17    *December 31, 1989, under section 1842(h)(1) of*  
 18    *the Social Security Act shall remain in effect for*  
 19    *the 3-month period beginning on January 1,*  
 20    *1990;*

21                (B) *the effective period for such agreements*  
 22    *under such section entered into for 1990 shall be*  
 23    *the 9-month period beginning on April 1, 1990,*  
 24    *and the Secretary shall provide an opportunity for*

1        *physicians and suppliers to enroll as participating*  
2        *physicians and suppliers before April 1, 1990;*

3            *(C) instead of publishing, under section*  
4        *1842(h)(4) of the Social Security Act, at the be-*  
5        *ginning of 1990, directories of participating phy-*  
6        *sicians and suppliers for 1990, the Secretary*  
7        *shall provide for such publication, at the begin-*  
8        *ning of the 9-month period beginning on April 1,*  
9        *1990, of such directories of participating physi-*  
10       *cians and suppliers for such period; and*

11           *(D) instead of providing to nonparticipating*  
12       *physicians under section 1842(b)(3)(G) of the*  
13       *Social Security Act at the beginning of 1990, a*  
14       *list of maximum allowable actual charges for*  
15       *1990, the Secretary shall provide such physi-*  
16       *cians, at the beginning of the 9-month period be-*  
17       *ginning on April 1, 1990, with such a list for*  
18       *such 9-month period.*

19       *An agreement with a participating physician or suppli-*  
20       *er described in subparagraph (A) in effect on December*  
21       *31, 1989, under section 1842(h)(1) of the Social Secu-*  
22       *rity Act shall not remain in effect for the period de-*  
23       *scribed in subparagraph (A) if the participating physi-*  
24       *cian or supplier requests on or before December 31,*  
25       *1989, that the agreement be terminated.*

1       (b) *UPDATE*.—Section 1842(b)(4)(E) (42 U.S.C.  
 2 1395u(b)(4)(E)) is amended by adding at the end thereof the  
 3 following new clause:

4               “(iv) For purposes of this part for physi-  
 5 cians’ services furnished in 1990, after March 31,  
 6 1990, the percentage increase in the MEI is—

7               “(I) zero percent for radiology services,

8               “(II) 2 percent for other services (other  
 9 than primary care services), and

10              “(III) such percentage increase in the  
 11 MEI (as defined in subsection (i)(3)) as  
 12 would be otherwise determined for primary  
 13 care services (as defined in subsection  
 14 (i)(4)).”.

15 **SEC. 5202. REDUCTION IN PAYMENTS FOR CERTAIN OVERVAL-**  
 16 **UED PROCEDURES.**

17       (a) *REDUCTION IN PAYMENTS FOR IDENTIFIED*  
 18 *OVERVALUED PROCEDURES*.—

19              (1) *IN GENERAL*.—Section 1842(b) (42 U.S.C.  
 20 1395u(b)) is amended by adding at the end the follow-  
 21 ing new paragraph:

22              “(14)(A) In determining the reasonable charge for a  
 23 physician’s service specified in subparagraph (C)(i) and fur-  
 24 nished during the 9-month period beginning on April 1,  
 25 1990, the prevailing charge for such service shall be the pre-

1 vailing charge otherwise recognized for such service for 1989  
2 reduced by 15 percent or, if less,  $\frac{1}{4}$  of the percent (if any) by  
3 which the prevailing charge otherwise applied in the locality  
4 in 1989 exceeds the locally-adjusted reduced prevailing  
5 amount (as determined under subparagraph (B)(i)) for the  
6 service.

7 “(B) For purposes of this paragraph:

8 “(i) The ‘locally-adjusted reduced prevailing  
9 amount’ for a locality for a physician’s service is equal  
10 to the product of (I) the reduced national weighted av-  
11 erage prevailing charge for the service (specified under  
12 clause (ii)) and (II) the adjustment factor (specified  
13 under clause (iii) for the locality.

14 “(ii) The ‘reduced national weighted average pre-  
15 vailing charge’ for a physician’s service is equal to the  
16 national weighted average prevailing charge for the  
17 service (specified under subparagraph (C)(ii)) reduced  
18 by the percentage change (specified under subpara-  
19 graph (C)(iii)) for the service.

20 “(iii) The ‘adjustment factor’ for a locality is .54  
21 plus the product of .46 and the geographic practice cost  
22 index value (specified under subparagraph (C)(iv)) for  
23 the locality.

24 “(C) For purposes of this paragraph:

1           “(i) *The physicians’ services specified in this*  
2           *clause are the physicians’ services specified in Appen-*  
3           *dix A of the explanation of subtitle B of title X (Com-*  
4           *mittee on Ways and Means) contained in the report of*  
5           *the Committee of the Budget, House of Representa-*  
6           *tives, to accompany H.R. 3299 (‘Omnibus Budget*  
7           *Reconciliation Act of 1989’), 101st Congress, which*  
8           *specification is of physicians’ services that have been*  
9           *identified as overpriced by at least 15 percent based on*  
10          *a comparison of payments for such services under a re-*  
11          *source-based relative value scale and of the national*  
12          *average prevailing charges under this part.*

13          “(ii) *The ‘national weighted average prevailing*  
14          *charge’ specified in this clause, for a physician’s serv-*  
15          *ice specified in clause (i), is the national weighted av-*  
16          *erage prevailing charge for the service in 1989 as*  
17          *determined by the Secretary using the best data*  
18          *available.*

19          “(iii) *The ‘percent change’ specified in this*  
20          *clause, for a physician’s service specified in clause (i),*  
21          *is the percent change specified for the service in the*  
22          *Appendix referred in clause (i).*

23          “(iv) *The geographic practice cost index value*  
24          *specified in this clause for a locality is such value*

1       *specified for the locality in the Appendix referred to in*  
 2       *clause (i).*

3       “(D) *In the case of a reduction in the prevailing charge*  
 4       *for a physicians’ service under subparagraph (A), if a non-*  
 5       *participating physician furnishes the service to an individual*  
 6       *entitled to benefits under this part, after the effective date of*  
 7       *such reduction, the physician’s actual charge is subject to a*  
 8       *limit under subsection (j)(1)(D).”.*

9               (2) *SPECIAL LIMITS ON ACTUAL CHARGES.—*

10       *Section 1842(j)(1)(D) of such Act is amended—*

11               (A) *in clause (ii)(II), by inserting “or*  
 12               *(b)(14)(A)” after “(b)(10)(A)”, and*

13               (B) *in clause (iii)(II), by striking “or*  
 14               *(b)(11)(C)(i)” and inserting “(b)(11)(C)(i), or*  
 15               *(b)(14)(A)”.*

16       **SEC. 5203. REDUCTION IN PAYMENTS FOR RADIOLOGY SERV-**  
 17               **ICES.**

18       (a) *FEE SCHEDULES FOR RADIOLOGIST SERVICES*  
 19       *REDUCED.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4))*  
 20       *is amended—*

21               (1) *by redesignating subparagraphs (C) and (D)*  
 22               *as subparagraphs (D) and (E), and*

23               (2) *by inserting after subparagraph (B) the fol-*  
 24               *lowing new subparagraph:*



1                   “(C) 1990 FEE SCHEDULES.—(i) For radi-  
 2                   ology services furnished under this part during  
 3                   1990, after March 31 of such year, the fee sched-  
 4                   ules under this subsection shall be 95 percent of  
 5                   the amounts permitted under the fee schedules de-  
 6                   veloped for 1989 under subparagraph (A).

7                   “(ii) For portable X-ray services furnished  
 8                   under this part during 1990, after March 31 of  
 9                   such year, clause (i) shall be applied by substitut-  
 10                  ing ‘97’ for ‘95’.”

11               (b) REDUCTION IN PREVAILING CHARGES FOR RADI-  
 12               OLOGY SERVICES.—(1) Section 1842(b) (42 U.S.C.  
 13               1395u(b)) is amended by adding at the end thereof the follow-  
 14               ing new paragraph:

15               “(15) The prevailing charge levels for radiology  
 16               services furnished during 1990, after March 31 of such  
 17               year, shall be 98 percent of the prevailing charge levels  
 18               for such services furnished during 1989.”

19               (2) Section 1842(j)(1)(D) of such Act, as amended by  
 20               subsection (a)(2) of this section, is further amended—

21               (i) in clause (ii)(IV), by inserting “or (b)(15)”  
 22               before the comma at the end, and

23               (ii) in clause (iii)(II), by striking “or  
 24               (b)(14)(A)(i)” and inserting “(b)(14)(A), or (b)(15)”.

1       (c) *1-YEAR EXEMPTION OF NUCLEAR PHYSI-*  
2 *CIA NS.—(1) In applying section 1834(b)(6) of the Social*  
3 *Security Act with respect to services furnished during 1990,*  
4 *after March 31, of such year, the term “radiologist services”*  
5 *does not include nuclear medicine services performed by, or*  
6 *under the direct supervision of, a physician who is certified*  
7 *by the American Board of Nuclear Medicine or by the Amer-*  
8 *ican Board of Radiology (with Special Competence in Nu-*  
9 *clear Radiology).*

10       (2) *The Secretary of Health and Human Services shall*  
11 *make such adjustments in the fee schedule under section*  
12 *1834(b) of the Social Security Act as may be necessary to*  
13 *ensure that the exclusion required by paragraph (1) neither*  
14 *increases nor decreases the total amount that would have been*  
15 *expended in 1990 for radiologist services (including the*  
16 *services excluded pursuant to this paragraph) but for the*  
17 *exclusion.*

18       (d) *INTERVENTIONAL RADIOLOGISTS.—In applying*  
19 *section 1834(b) of the Social Security Act to radiology serv-*  
20 *ices furnished in 1990, the exception for “split billing” set*  
21 *forth at section 5262J of the Medicare Carriers Manual shall*  
22 *apply to services furnished in 1990 in the same manner and*  
23 *to the same extent as the exception applied to services fur-*  
24 *nished in 1989.*

1 **SEC. 5204. ANESTHESIA SERVICES.**

2       *For purposes of payment for anesthesia services (wheth-*  
 3 *er furnished by a physician or by a certified registered nurse*  
 4 *anesthetist) furnished under part B of title XVIII of the*  
 5 *Social Security Act on or after April 1, 1990, the time units*  
 6 *shall be counted based on actual time rather than rounded to*  
 7 *full time units.*

8               **Subpart B—Payment For Other Services**

9 **SEC. 5221. CLINICAL DIAGNOSTIC LABORATORY SERVICES.**

10       (a) **SETTING FEE SCHEDULE UPDATE FOR 1990 AT**  
 11 **3 PERCENT.**—*Paragraph (2)(A)(ii) of section 1833(h) (42*  
 12 *U.S.C. 1395l(h)) is amended—*

13               (1) *by striking “and” at the end of subclause (I);*

14               (2) *in subclause (II), by striking “1988.” and in-*  
 15 *serting “1988, and”; and*

16               (3) *by adding at the end the following new sub-*  
 17 *clause:*

18               “(III) *the annual adjustment under clause (i) to*  
 19 *become effective on April 1, 1990, shall be an increase*  
 20 *of 3 percent.”.*

21       (b) **REDUCTION OF LIMITATION AMOUNT ON PAY-**  
 22 **MENT AMOUNT.**—*Paragraph (4)(B) of such section is*  
 23 *amended—*

24               (1) *in clause (i), by striking “or” at the end;*

25               (2) *in clause (ii)—*

(A) by striking “and so long as a fee schedule for the test has not been established on a nationwide basis,” and inserting “and before January 1, 1990,” and

(B) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following new clause:

“(iii) after December 31, 1989, and so long as a fee schedule for the test has not been established on a nationwide basis, is equal to 95 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).”.

**SEC. 5222. DURABLE MEDICAL EQUIPMENT.**

(a) *DELAY IN AND REDUCTION OF UPDATE FOR 1990.*—

(1) *INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.*—

Paragraphs (2)(B) and (3)(B) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in clause (i), by striking “in 1989” and inserting “in 1989 and the first 3 months of 1990”,

(B) in clause (i), by striking “or” at the end,

1           (C) in clause (ii), by striking “for the pre-  
 2           ceding year” and inserting “for the last day of the  
 3           preceding year”,

4           (D) by redesignating clause (ii) as clause  
 5           (iii), and

6           (E) by inserting after clause (i) the following  
 7           new clause:

8                     “(ii) in the remaining months of 1990,  
 9                     is the amount specified in clause (i) in-  
 10                    creased by 3 percent, or”.

11           (2) *MISCELLANEOUS DEVICES AND ITEMS AND*  
 12           *OTHER COVERED ITEMS.*—Paragraph (8)(A)(ii) of  
 13           such section is amended—

14           (A) in subclause (I), by striking “1989” and  
 15           inserting “1989 and the first 3 months of 1990”,

16           (B) in subclause (I), by striking “or” at the  
 17           end,

18           (C) in subclause (II), by striking “1990,  
 19           1991,” and inserting “1991”,

20           (D) in subclause (II), by striking “for the  
 21           previous year” and inserting “for the last day of  
 22           the previous year”,

23           (E) by redesignating subclause (II) as sub-  
 24           clause (III), and

(F) by inserting after subclause (I) the following new subclause:

“(II) in the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or”.

(3) OXYGEN AND OXYGEN EQUIPMENT.—Paragraph (9)(A)(ii) of such section is amended—

(A) in subclause (I), by striking “1989” and inserting “1989 and the first 3 months of 1990”,

(B) in subclause (I), by striking “or” at the end,

(C) in subclause (II), by striking “1990, 1991,” and inserting “1991”,

(D) in subclause (II), by striking “for the previous year” and inserting “for the last day of the previous year”,

(E) by redesignating subclause (II) as subclause (III), and

(F) by inserting after subclause (I) the following new subclause:

“(II) to the remaining months of 1990, is the amount specified in subclause (I) increased by 3 percent, or”.

(4) CONFORMING AMENDMENTS.—Such section is further amended—

1           (A) in paragraph (7)(A)(i), by striking “this  
2           subparagraph” and inserting “this clause”;

3           (B) in paragraph (8)(C)(i), by striking  
4           “(A)(ii)(I)” and inserting “(A)(ii)”; and

5           (C) in paragraphs (8) and (9)—

6                 (i) in subparagraph (B)(i), by striking  
7                 “(A)(ii)(II)” and inserting “(A)(ii)(III)”;  
8                 and

9                 (ii) in clauses (ii) and (iii) of subpara-  
10                 graph (C), by striking “(A)(ii)(II)” and in-  
11                 serting “(A)(ii)(III)”.

12         (b) *ADJUSTMENT BY SECRETARY FOR OVERPRICED*  
13         *ITEMS.*—Paragraph (1) of section 1834(a) (42 U.S.C.  
14         1395m(a)) is amended by adding at the end the following  
15         new subparagraph:

16                 “(D) *REDUCTION IN FEE SCHEDULES FOR*  
17                 *CERTAIN ITEMS.*—With respect to a seat-lift  
18                 chair or transcutaneous electrical nerve stimulator  
19                 furnished on or after April 1, 1990, the Secretary  
20                 shall reduce the payment amount applied under  
21                 subparagraph (B)(ii) for such an item by 15 per-  
22                 cent.”.

23         (c) *TREATMENT OF POWER DRIVEN WHEEL-*  
24         *CHAIRS.*—

1           (1) *AS ROUTINELY PURCHASED.*—Section  
2   1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amend-  
3   ed—

4                   (A) by striking “or” at the end of clause (i),

5                   (B) by adding “or” at the end of clause (ii),

6           and

7                   (C) by inserting after clause (ii) the follow-  
8   ing new clause:

9                   “(iii) which is a power-driven wheel-  
10                  chair (other than a customized wheelchair  
11                  that is classified as a customized item under  
12                  paragraph (4) pursuant to criteria specified  
13                  by the Secretary),”.

14           (2) *AS CUSTOMIZED ITEM.*—The Secretary of  
15   Health and Human Services (hereafter in this subsec-  
16   tion referred to as the “Secretary”) shall by regulation  
17   specify criteria to be used by carriers in making deter-  
18   minations on a case by case basis as whether to classi-  
19   fy power-driven wheelchairs as a customized item (as  
20   described in section 1834(a)(4) of the Social Security  
21   Act) for purposes of reimbursement under title XVIII  
22   of the Social Security Act.

23           (3) *The amendments made by paragraph (1) shall*  
24   *apply to items furnished on or after April 1, 1990.*



1 **SEC. 5223. PAYMENTS FOR CAPITAL FOR HOSPITAL OUTPA-**  
2 **TIENT SERVICES.**

3 *Section 1861(v)(1)(S) (42 U.S.C. 1395x(v)(1)(S)) is*  
4 *amended—*

5 *(1) by inserting “(i)” after “(S)”, and*

6 *(2) by adding at the end the following new clause:*

7 *“(ii)(I) Such regulations shall provide that, in deter-*  
8 *mining the amount of the payments that may be made under*  
9 *this title with respect to all the capital-related costs of outpa-*  
10 *tient hospital services, the Secretary shall reduce the amounts*  
11 *of such payments otherwise established under this title by*  
12 *13.5 percent for services provided in cost reporting periods*  
13 *beginning during fiscal year 1990.*

14 *“(II) Subclause (I) shall not apply to payments with*  
15 *respect to the capital-related costs of any hospital for a cost*  
16 *reporting period if the hospital is a sole community hospital*  
17 *(as defined in section 1886(d)(5)) or is eligible to be paid as*  
18 *a sole community hospital for the period.*

19 *“(III) Subclause (I) shall not apply to payments with*  
20 *respect to the capital-related costs of any hospital for a cost*  
21 *reporting period if the hospital is a hospital (described in*  
22 *section 1815(e)(1)(B)) for the period.*

23 *“(IV) The Secretary shall apply the reduction described*  
24 *in subclause (I) to services for which payment may be based*  
25 *on a blended rate under section 1833(n) or 1833(i)(3); how-*

1 *ever, the reduction shall be applied only to that portion of the*  
 2 *payment based on hospital costs.”.*

3 ***PART III—PROVISIONS RELATING TO PARTS A AND B***  
 4 ***OF MEDICARE***

5 ***SEC. 5301. DELAY IN PAYMENTS IN FISCAL YEAR 1990.***

6 *(a) PART A.—Section 1816(c) (42 U.S.C. 1395h(c)) is*  
 7 *amended—*

8 *(1) in paragraph (2)(B)(ii)(IV), by striking “24”*  
 9 *and inserting “25”; and*

10 *(2) in paragraph (3)(B)—*

11 *(A) by striking “and” at the end of clause*  
 12 *(i),*

13 *(B) by striking the period at the end of*  
 14 *clause (ii) and inserting “, and”, and*

15 *(C) by adding at the end the following new*  
 16 *clause:*

17 *“(iii) with respect to claims received in the 12-*  
 18 *month period beginning October 1, 1989, 15 days.”.*

19 *(b) PART B.—Section 1842(c) (42 U.S.C. 1395u(c)) is*  
 20 *amended—*

21 *(1) in paragraph (2)(B)(ii)(IV), by striking “24”*  
 22 *and “17” and inserting “25” and “20”, respectively;*  
 23 *and*

24 *(2) in paragraph (3)(B)—*

1 (A) by striking "and" at the end of clause

2 (i),

3 (B) by striking the period at the end of  
4 clause (ii) and inserting ", and", and

5 (C) by adding at the end the following new  
6 clause:

7 "(iii) with respect to claims received in the 12-  
8 month period beginning October 1, 1989, 15 days."

9 (c) *NECESSARY RESULT*.—Any transfer of outlays, re-  
10 ceipts, or revenues pursuant to this section, is a necessary  
11 (but secondary) result of a significant policy change for pur-  
12 poses of section 202 of Public Law 100-119.

13 **SEC. 5302. MEDICARE AS SECONDARY PAYER.**

14 (a) *IDENTIFICATION OF MEDICARE SECONDARY*  
15 *PAYER SITUATIONS*.—

16 (1) *DISCLOSURE OF CERTAIN TAXPAYER IDEN-*  
17 *TITY INFORMATION FOR VERIFICATION OF EMPLOY-*  
18 *MENT STATUS OF MEDICARE BENEFICIARY AND*  
19 *SPOUSE OF MEDICARE BENEFICIARY*.—

20 (A) *IN GENERAL*.—Subsection (l) of section  
21 6103 of the Internal Revenue Code of 1986 (re-  
22 lating to disclosure of returns and return informa-  
23 tion for purposes other than tax administration) is  
24 amended by adding at the end thereof the follow-  
25 ing new paragraph:

1           “(12) *DISCLOSURE OF CERTAIN TAXPAYER*  
2           *IDENTITY INFORMATION FOR VERIFICATION OF EM-*  
3           *PLOYMENT STATUS OF MEDICARE BENEFICIARY AND*  
4           *SPOUSE OF MEDICARE BENEFICIARY.—*

5           “(A) *RETURN INFORMATION FROM INTER-*  
6           *NAL REVENUE SERVICE.—The Secretary shall,*  
7           *upon written request from the Commissioner of*  
8           *Social Security, disclose to the Commissioner*  
9           *available filing status and taxpayer identity infor-*  
10          *mation from the individual master files of the In-*  
11          *ternal Revenue Service relating to whether any*  
12          *medicare beneficiary identified by the Commis-*  
13          *sioner was a married individual (as defined in*  
14          *section 7703) for any specified year after 1986,*  
15          *and, if so, the name of the spouse of such individ-*  
16          *ual and such spouse's TIN.*

17          “(B) *RETURN INFORMATION FROM SOCIAL*  
18          *SECURITY ADMINISTRATION.—The Commission-*  
19          *er of Social Security shall, upon written request*  
20          *from the Administrator of the Health Care Fi-*  
21          *nancing Administration, disclose to the Adminis-*  
22          *trator the following information:*

23                 “(i) *The name and TIN of each medi-*  
24                 *care beneficiary who is identified as having*  
25                 *received wages (as defined in section*

1                   3401(a)) from a qualified employer in a pre-  
2                   vious year.

3                   “(ii) For each medicare beneficiary who  
4                   was identified as married under subpara-  
5                   graph (A) and whose spouse is identified as  
6                   \_\_\_\_\_ having received wages from a qualified em-  
7                   ployer in a previous year—

8                   “(I) the name and TIN of the  
9                   medicare beneficiary, and

10                  “(II) the name and TIN of the  
11                  spouse.

12                  “(iii) With respect to each such quali-  
13                  fied employer, the name, address, and TIN  
14                  of the employer and the number of individ-  
15                  uals with respect to whom written statements  
16                  were furnished under section 6051 by the  
17                  employer with respect to such previous year.

18                  “(C) *DISCLOSURE BY HEALTH CARE FI-*  
19                  *NANCING ADMINISTRATION.*—With respect to the  
20                  information disclosed under subparagraph (B),  
21                  the Administrator of the Health Care Financing  
22                  Administration may disclose—

23                  “(i) to the qualified employer referred to  
24                  in such subparagraph the name and TIN of  
25                  each individual identified under such sub-

1           *paragraph as having received wages from the*  
2           *employer (hereinafter in this subparagraph*  
3           *referred to as the 'employee') for purposes of*  
4           *determining during what period such em-*  
5           *ployee or the employee's spouse may be (or*  
6           *have been) covered under a group health plan*  
7           *of the employer and what benefits are or*  
8           *were covered under the plan (including the*  
9           *name, address, and identifying number of*  
10          *the plan),*

11           *"(ii) to any group health plan which*  
12          *provides or provided coverage to such an em-*  
13          *ployee or spouse, the name of such employee*  
14          *and the employee's spouse (if the spouse is a*  
15          *medicare beneficiary) and the name and ad-*  
16          *dress of the employer, and, for the purpose of*  
17          *presenting a claim to the plan—*

18           *"(I) the TIN of such employee if*  
19          *benefits were paid under title XVIII of*  
20          *the Social Security Act with respect to*  
21          *the employee during a period in which*  
22          *the plan was a primary plan (as de-*  
23          *fined in section 1862(b)(2)(A) of the*  
24          *Social Security Act), and*

1                   “(II) the TIN of such spouse if  
2                   benefits were paid under such title with  
3                   respect to the spouse during such period,  
4                   and

5                   “(iii) to any agent of such Administra-  
6                   tor the information referred to in subpara-  
7                   graph (B) for purposes of carrying out  
8                   clauses (i) and (ii) on behalf of such Admin-  
9                   istrator.

10                  “(D) SPECIAL RULES.—

11                   “(i) RESTRICTIONS ON DISCLO-  
12                   SURE.—Information may be disclosed under  
13                   this paragraph only for purposes of, and to  
14                   the extent necessary in, determining the  
15                   extent to which any medicare beneficiary is  
16                   covered under any group health plan.

17                   “(ii) TIMELY RESPONSE TO RE-  
18                   QUESTS.—Any request made under subpara-  
19                   graph (A) or (B) shall be complied with as  
20                   soon as possible but in no event later than  
21                   120 days after the date the request was  
22                   made.

23                   “(E) DEFINITIONS.—For purposes of this  
24                   paragraph—

1           “(i) *MEDICARE BENEFICIARY.*—*The*  
 2           *term ‘medicare beneficiary’ means an indi-*  
 3           *vidual entitled to benefits under part A, or*  
 4           *enrolled under part B, of title XVIII of the*  
 5           *Social Security Act, but does not include*  
 6           *such an individual enrolled in part A under*  
 7           *section 1818 or section 1818A.*

8           “(ii) *GROUP HEALTH PLAN.*—*The*  
 9           *term ‘group health plan’ means—*

10                   “(I) *any group health plan (as de-*  
 11                   *finied in section 5000(b)(1)), and*

12                   “(II) *any large group health plan*  
 13                   *(as defined in section 5000(b)(2)).*

14           “(iii) *QUALIFIED EMPLOYER.*—*The*  
 15           *term ‘qualified employer’ means, for a calen-*  
 16           *dar year, an employer which has furnished*  
 17           *written statements under section 6051 with*  
 18           *respect to at least 20 individuals for wages*  
 19           *paid in the year.*

20           “(F) *TERMINATION.*—*Subparagraphs (A)*  
 21           *and (B) shall not apply to—*

22                   “(i) *any request made after September*  
 23                   *30, 1991, and*

24                   “(ii) *any request made before such date*  
 25                   *for information relating to—*



1                   “(I) 1990 or thereafter in the case  
2                   of subparagraph (A), or

3                   “(II) 1991 or thereafter in the  
4                   case of subparagraph (B).”

5                   (B) SAFEGUARDS.—

6                   (i) Paragraph (3) of section 6103(a) of  
7                   such Code is amended by inserting  
8                   “(l)(12),” after “(e)(1)(D)(iii),”.

9                   (ii) Subparagraph (A) of section  
10                  6103(p)(3) of such Code is amended by  
11                  striking “or (11)” and inserting “(11), or  
12                  (12)”.

13                  (iii) Paragraph (4) of section 6103(p)  
14                  of such Code is amended in the material pre-  
15                  ceding subparagraph (A) by striking “or (9)  
16                  shall” and inserting “(9), or (12) shall”.

17                  (iv) Clause (ii) of section 6103(p)(4)(F)  
18                  of such Code is amended by striking “or  
19                  (11)” and inserting “(11), or (12)”.

20                  (v) The next to the last sentence of  
21                  paragraph (4) of section 6103(p) of such  
22                  Code is amended by inserting “or which re-  
23                  ceives any information under subsection  
24                  (l)(12)(B) and which discloses any such in-

1           *formation to any agent” before “, this para-*  
 2           *graph”.*

3           (C) *PENALTY.*—*Paragraph (2) of section*  
 4           *7213(a) of such Code is amended by striking “or*  
 5           *(10)” and inserting “(10), or (12)”.*

6           (D) *EFFECTIVE DATE.*—*The amendments*  
 7           *made by this paragraph shall take effect on Octo-*  
 8           *ber 1, 1989.*

9           (2) *RESPONSIBILITIES OF HCFA.*—

10           (A) *IN GENERAL.*—*Section 1862(b) (42*  
 11           *U.S.C. 1395y(b)), as amended by subsection*  
 12           *(b)(1) of this section, is amended by inserting*  
 13           *after paragraph (4) the following new paragraph:*

14           “(5) *IDENTIFICATION OF SECONDARY PAYER*  
 15           *SITUATIONS.*—

16           “(A) *REQUESTING MATCHING INFORMA-*  
 17           *TION.*—

18           “(i) *COMMISSIONER OF SOCIAL SECURI-*  
 19           *RITY.*—*The Commissioner of Social Securi-*  
 20           *ty shall, not less often than annually, trans-*  
 21           *mit to the Secretary of the Treasury a list of*  
 22           *the names and TINs of medicare benefici-*  
 23           *aries (as defined in section 6103(l)(12) of*  
 24           *the Internal Revenue Code of 1986) and re-*  
 25           *quest that the Secretary disclose to the Com-*

1            *missioner the information described in sub-*  
 2            *paragraph (A) of such section.*

3            *“(ii) ADMINISTRATOR.—The Adminis-*  
 4            *trator of the Health Care Financing Admin-*  
 5            *istration shall request, not less often than an-*  
 6            *nually, the Commissioner of the Social Se-*  
 7            *curity Administration to disclose to the Ad-*  
 8            *ministrator the information described in sub-*  
 9            *paragraph (B) of section 6103(l)(12) of the*  
 10           *Internal Revenue Code of 1986.*

11           *“(C) DISCLOSURE TO FISCAL INTERME-*  
 12           *DIARIES AND CARRIERS.—In addition to any*  
 13           *other information provided under this title to*  
 14           *fiscal intermediaries and carriers, the Administra-*  
 15           *tor shall disclose to such intermediaries and carri-*  
 16           *ers the information received under subparagraph*  
 17           *(B) for the purposes of carrying out this subsec-*  
 18           *tion.*

19           *“(D) CONTACTING EMPLOYERS.—*

20           *“(i) IN GENERAL.—With respect to*  
 21           *each individual (in this subparagraph re-*  
 22           *ferred to as an ‘employee’) who was fur-*  
 23           *nished a written statement under section*  
 24           *6051 of the Internal Revenue Code of 1986*  
 25           *by a qualified employer (as defined in sec-*

1           tion 6103(l)(12)(D)(iii) of such Code), as  
2           disclosed under subparagraph (C), the appro-  
3           priate fiscal intermediary or carrier shall  
4           contact the employer in order to determine  
5           during what period the employee or employ-  
6           ee's spouse may be (or have been) covered  
7           under a group health plan of the employer  
8           and the nature of the coverage that is or was  
9           provided under the plan (including the name,  
10          address, and identifying number of the plan).

11           “(i) *EMPLOYER RESPONSE.*—Within  
12          30 days of the date of receipt of the inquiry,  
13          the employer shall notify the intermediary or  
14          carrier making the inquiry as to the determi-  
15          nations described in clause (i). An employer  
16          (other than a Federal or other governmental  
17          entity) who willfully or repeatedly fails to  
18          provide timely and accurate notice in accord-  
19          ance with the previous sentence shall be sub-  
20          ject to a civil money penalty of not to exceed  
21          \$1,000 for each individual with respect to  
22          which such an inquiry is made. The provi-  
23          sions of section 1128A (other than subsec-  
24          tions (a) and (b)) shall apply to a civil  
25          money penalty under the previous sentence

1           *in the same manner as such provisions apply*  
 2           *to a penalty or proceeding under section*  
 3           *1128A(a).*

4           “(iii) *SUNSET ON REQUIREMENT.—*  
 5           *Clause (ii) shall not apply to inquiries made*  
 6           *after September 30, 1991.”.*

7           “(B) *DEADLINE FOR FIRST REQUEST.—The*  
 8           *Commissioner of Social Security shall first—*

9                   *(i) transmit to the Secretary of the*  
 10           *Treasury information under paragraph*  
 11           *(5)(A)(i) of section 1862(b) of the Social Se-*  
 12           *curity Act (as inserted by subparagraph*  
 13           *(A)), and*

14                   *(ii) request from the Secretary disclo-*  
 15           *sure of information described in section*  
 16           *6013(l)(12)(A) of the Internal Revenue Code*  
 17           *of 1986,*

18           *by not later than October 15, 1989.*

19           ***PART IV—MEDICARE PART B BASIC PREMIUM***

20           ***SEC. 5401. ONE-YEAR EXTENSION OF PART B PREMIUM MINI-***  
 21           ***MUM.***

22           *Section 1839(e) (42 U.S.C. 1395q(e)) is amended by*  
 23           *striking “1990” each place it appears and inserting in lieu*  
 24           *thereof “1991”.*

## ***Subtitle B—Medicaid***

### **SEC. 5501. MISCELLANEOUS MEDICAID PROVISIONS.**

#### **(a) NURSE AIDE TRAINING.—**

**(1) DELAY IN REQUIREMENT.—***Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is amended—*

*(A) in subparagraph (A), by striking “January 1, 1990” and inserting “October 1, 1990”, and*

*(B) in subparagraph (B), by striking “July 1, 1989” and “January 1, 1990” and inserting “January 1, 1990” and “October 1, 1990”, respectively.*

**(2) WAIVERS FOR CERTAIN NURSE AIDES.—***Section 1919(b)(5) (42 U.S.C. 1396r(b)(5)) is further amended—*

*(A) in subparagraph (A), by striking “any individual” and inserting in lieu thereof “any individual (except an individual described in subparagraph (H))”, and*

*(B) by inserting at the end thereof the following new subparagraph:*

**“(H) EXCEPTIONS TO GENERAL RULE OF REQUIRED TRAINING OF NURSE AIDES.—**

**“(i) WAIVERS.—***With respect to the nurse aide training and competency require-*

1            *ments described in subparagraph (A), a*  
2            *State shall waive such requirements with re-*  
3            *spect to an individual who—*

4                    *“(I) was hired as a nurse aide by*  
5                    *an employer before January 1, 1990,*

6                    *“(II) can demonstrate to the satis-*  
7                    *faction of the State that such individual*  
8                    *has served as a nurse aide at one or*  
9                    *more facilities of the same employer in*  
10                   *the State for at least 24 consecutive*  
11                   *months, and*

12                   *“(III) has completed a 15-hour*  
13                   *course of instruction in basic skills de-*  
14                   *veloped by the State.*

15                   *“(ii) WAIVERS.—With respect to the*  
16                   *nurse aide training and competency require-*  
17                   *ments described in subparagraph (a), a State*  
18                   *shall waive such requirements with respect to*  
19                   *an individual who—*

20                   *“(I) was employed as a nurse aide*  
21                   *before January 1, 1990,*

22                   *“(II) can demonstrate to the satis-*  
23                   *faction of the State that he or she has*  
24                   *served as a nurse aide in the State in*  
25                   *the preceding 24 month period, and*

1                   “(III) has completed a nurse aide  
2                   training program that was required by  
3                   the State and established before Decem-  
4                   ber 22, 1987.”.

5           (b) *DELAY IN REQUIREMENT FOR REMEDIES.*—Sec-  
6   tion 1919(h)(2)(B)(i) (42 U.S.C. 1396r(h)(2)(B)(i)) is  
7   amended by striking “October 1, 1989” and inserting in lieu  
8   thereof “April 1, 1991”.

9           (c) *EFFECTIVE DATES.*—Except as provided in sub-  
10   paragraph (B), the amendments made by this section shall  
11   take effect as if they were included in the enactment of the  
12   Omnibus Budget Reconciliation Act of 1987.

### 13                   **Subtitle C—Income Security**

#### 14   SEC. 5601. PROPOSED AMENDMENTS TO AUTHORIZE THE 15                   OFFSET OF UNPAID CONTRIBUTIONS FROM UN- 16                   EMPLOYMENT COMPENSATION (WITH TECHNI- 17                   CAL AMENDMENTS).

18           (a) *IN GENERAL.*—Section 303 is amended by adding  
19   at the end the following new subsection:

20           “(j)(1) The State agency charged with administration of  
21   the State law may deduct and withhold from the unemploy-  
22   ment compensation otherwise payable to an individual an  
23   amount equal to the unpaid contributions, as defined in sec-  
24   tion 3306(g) of the Federal Unemployment Tax Act (26



1 U.S.C. 3306(g)), owed by the individual to the State's un-  
 2 employment fund.

3 “(2) Any amount deducted and withheld under this sub-  
 4 section shall for all purposes be treated as if it were paid to  
 5 the individual as unemployment compensation and paid by  
 6 such individual to the State's unemployment fund in satis-  
 7 faction of the contributions owed.

8 “(3) For purposes of this subsection, the term ‘unem-  
 9 ployment compensation’ means any unemployment compen-  
 10 sation payable under the State law (including amounts pay-  
 11 able pursuant to an agreement under a Federal unemploy-  
 12 ment compensation law).”.

13 (b) DEDUCTIONS FROM BENEFITS.—Section  
 14 303(a)(5) is amended by striking out the last proviso and  
 15 inserting in lieu thereof the following: “Provided further,  
 16 That amounts may be deducted from unemployment benefits  
 17 and otherwise payable to an individual and used in payment  
 18 of obligations owed by the individual solely as provided in  
 19 subsections (d), (e), (g), and (j) of this section.”.

20 (c) FEDERAL UNEMPLOYMENT TAX.—Section  
 21 3304(a)(4) of the Federal Unemployment Tax Act is amend-  
 22 ed by amending subparagraph (D) thereof to read as follows:

23 “(D) amounts may be deducted from unemploy-  
 24 ment benefits and used in payment of obligations owed  
 25 by the individual solely as provided in subsections (d),

1       (e), (g), and (j) of section 303 of the Social Security  
2       Act.”

### 3       ***TITLE VI—REVENUE MEASURES***

#### 4       ***SEC. 6001. SHORT TITLE; ETC.***

5       (a) *SHORT TITLE.*—This title may be cited as the  
6       “Revenue Reconciliation Act of 1989”.

7       (b) *AMENDMENT OF 1986 CODE.*—Except as otherwise  
8       expressly provided, whenever in this title an amendment or  
9       repeal is expressed in terms of an amendment to, or repeal of,  
10      a section or other provision, the reference shall be considered  
11      to be made to a section or other provision of the Internal  
12      Revenue Code of 1986.

#### 13      (c) *TABLE OF CONTENTS.*—

#### *TITLE VI—REVENUE MEASURES*

*Sec. 6001. Short title; etc.*

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*Subtitle E—Miscellaneous Provisions**PART I—LIKE KIND EXCHANGES BETWEEN RELATED PERSONS*

- Sec. 6601. Like kind exchanges between related persons.*

*PART II—ACCOUNTING PROVISIONS*

- Sec. 6621. Changes in treatment of transfers of franchises, trademarks, and trade names.*  
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- Sec. 6681. Treatment of distributions by partnerships of contributed property.*  
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*Subtitle F—Coordination With Budget Act*

- Sec. 6701. Coordination with Budget Act.*

- 1        ***Subtitle A—Corporate Provisions***  
2        ***SEC. 6201. DIVIDEND RECEIVED DEDUCTION NOT ALLOWED FOR***  
3                ***DIVIDENDS ON PREFERRED STOCK OF CERTAIN***  
4                ***SUBSIDIARIES.***  
5            (a) *IN GENERAL.*—Section 246 (relating to rules for  
6        applying deduction for dividends received) is amended by re-

1 *designating subsection (f) as subsection (g) and by inserting*  
 2 *after subsection (e) the following new subsection:*

3       “(f) *DEDUCTION DISALLOWED ON PREFERRED*  
 4 *STOCK OF SUBSIDIARY TO EXTENT TAXABLE INCOME*  
 5 *REDUCED BY LOSSES OF GROUP.—*

6               “(1) *GENERAL RULE.—No deduction shall be al-*  
 7 *lowed under section 243, 244, or 245 in respect of the*  
 8 *disallowed portion of any applicable dividend.*

9               “(2) *APPLICABLE DIVIDEND.—For purposes of*  
 10 *this subsection—*

11                       “(A) *IN GENERAL.—The term ‘applicable*  
 12 *dividend’ means any dividend—*

13                               “(i) *on stock described in section*  
 14 *1504(a)(4) in any corporation which is a*  
 15 *member of an affiliated group filing a con-*  
 16 *solidated return other than the common*  
 17 *parent (hereinafter in this subsection referred*  
 18 *to as the ‘distributing corporation’), and*

19                               “(ii) *paid out of the current earnings*  
 20 *and profits of the distributing corporation for*  
 21 *the taxable year (as determined under section*  
 22 *316(a)(2)).*

23                       “(B) *LIMITATION BASED ON CONSOLIDAT-*  
 24 *ED LOSS OFFSET.—The aggregate amount of*  
 25 *dividends treated as applicable dividends under*

1           subparagraph (A) shall not exceed the consolidat-  
2           ed loss offset of the distributing corporation.

3           “(3) *DISALLOWED PORTION.*—For purposes of  
4           this subsection, the term ‘disallowed portion’ means the  
5           portion of an applicable dividend which bears the same  
6           ratio to such dividend as—

7                     “(A) the consolidated loss offset, bears to

8                     “(B) the separately computed taxable income  
9           of the distributing corporation.

10          “(4) *CONSOLIDATED LOSS OFFSET.*—For pur-  
11       poses of this subsection, the term ‘consolidated loss  
12       offset’ means, with respect to any distributing corpora-  
13       tion, any of the following items of any other member of  
14       the same affiliated group as such corporation which are  
15       treated as used to offset the separately computed tax-  
16       able income of such corporation:

17                    “(A) Any net operating loss or any net oper-  
18       ating loss carryover under section 172.

19                    “(B) Any loss from the sale or exchange of  
20       any capital asset or any capital loss carryover  
21       under section 1212.

22                    “(C) The deduction equivalent (determined  
23       in the same manner as under section 383) of any  
24       excess credit or any excess credit carryover (deter-

1           mined under section 383 without regard to any  
2           foreign tax credit allowed under section 27(a)).

3           “(5) *SEPARATELY COMPUTED TAXABLE*  
4           *INCOME.*—The term ‘separately computed taxable  
5           income’ means the taxable income of a distributing cor-  
6           poration computed as if it were not a member of an  
7           affiliated group.

8           “(6) *REGULATIONS.*—The Secretary shall pre-  
9           scribe such regulations as may be necessary to carry  
10          out the provisions of this subsection, including regula-  
11          tions—

12                 “(A) preventing the avoidance of this subsec-  
13                 tion through the transfer of assets with built-in  
14                 losses to the distributing corporation, through de-  
15                 laying dividend payments, or through the use of  
16                 tiered entities; and

17                 “(B) exempting dividends from the applica-  
18                 tion of this subsection if the taxpayer can estab-  
19                 lish such dividends were paid from previously  
20                 taxed income.”

21          (b) *REPORTING REQUIREMENTS FOR DIVIDENDS.*—  
22          Section 6042(a) (relating to returns regarding payments of  
23          dividends and corporate earnings and profits) is amended by  
24          inserting “or” at the end of subparagraph (B) and by adding  
25          after subparagraph (B) the following new subparagraph:

1           “(C) who makes payments of applicable divi-  
 2           dends (within the meaning of section 246(f)(2)) to  
 3           any corporation a portion of which is not allow-  
 4           able as a deduction under section 243 or 245 by  
 5           reason of section 246(f),”.

6           (c) *EFFECTIVE DATES.*—

7           (1) *IN GENERAL.*—The amendment made by this  
 8           section shall apply to distributions after October 2,  
 9           1989, in respect of stock issued after such date.

10          (2) *BINDING CONTRACT EXCEPTION.*—The  
 11          amendment made by this section shall not apply to dis-  
 12          tributions after October 2, 1989, in respect to stock  
 13          issued after such date pursuant to a written binding  
 14          contract in effect on October 2, 1989, and at all times  
 15          thereafter before such issuance.

16          (3) *SPECIAL RULE WHEN SUBSIDIARY LEAVES*  
 17          *GROUP.*—If, by reason of a transaction after October  
 18          2, 1989, a corporation ceases to be, or becomes, a  
 19          member of an affiliated group, the amendment made by  
 20          this section shall apply to any distribution in respect of  
 21          the stock in such corporation after the date of such ces-  
 22          sation or commencement, unless such transaction is of  
 23          a kind which would not result in the recognition of any  
 24          deferred intercompany gain under the consolidated

1        *return regulations by reason of the acquisition of the*  
 2        *entire group.*

3            (4) *RETIRED STOCK.*—*The amendments made by*  
 4        *this section shall apply to distributions in respect of*  
 5        *stock described in paragraph (1) or (2) if such stock is*  
 6        *retired (or acquired) by the corporation or another*  
 7        *member of the same affiliated group, unless such retire-*  
 8        *ment is pursuant to an obligation to reissue under a*  
 9        *binding written contract in effect on October 1, 1989,*  
 10       *and at all times thereafter.*

11           (5) *SPECIAL RATE FOR AUCTION RATE RE-*  
 12        *FERRED.*—*For purposes of this subsection, auction*  
 13        *rate preferred stock shall be treated as issued when the*  
 14        *contract requiring the auction became binding.*

15    **SEC. 6202. DEFERRAL OF INTEREST DEDUCTIONS ON CERTAIN**  
 16                            **HIGH YIELD ORIGINAL ISSUE DISCOUNT OBLIGA-**  
 17                            **TIONS.**

18           (a) *GENERAL RULE.*—*Subsection (e) of section 163*  
 19        *(relating to interest deductions on original issue discount ob-*  
 20        *ligations) is amended by redesignating paragraph (5) as*  
 21        *paragraph (6) and by inserting after paragraph (4) the fol-*  
 22        *lowing new paragraph:*

23           “(5) *SPECIAL RULE FOR ORIGINAL ISSUE DIS-*  
 24        *COUNT ON CERTAIN HIGH YIELD OBLIGATIONS.*—  
 25        *Any portion of any original issue discount on an ap-*



1     *plicable high yield discount obligation (as defined in*  
 2     *subsection (i)) otherwise deductible by a C corporation*  
 3     *shall not be allowable as a deduction until paid. For*  
 4     *purposes of the preceding sentence, rules similar to the*  
 5     *rules of subsection (i)(3)(B) shall apply in determining*  
 6     *the time when original issue discount is paid.”*

7     **(b) APPLICABLE HIGH YIELD DISCOUNT OBLIGA-**  
 8     **TION.**—*Section 163 is amended by redesignating subsection*  
 9     *(i) as subsection (j) and by inserting after subsection (h) the*  
 10    *following new subsection:*

11       **“(i) APPLICABLE HIGH YIELD DISCOUNT OBLIGA-**  
 12    **TION.**—

13           **“(1) IN GENERAL.**—*For purposes of this section,*  
 14       *the term ‘applicable high yield discount obligation’*  
 15       *means any debt instrument if—*

16           **“(A) the maturity date of such instrument is**  
 17       **more than 5 years from the date of issue,**

18           **“(B) the yield to maturity on such instru-**  
 19       **ment equals or exceeds the sum of—**

20           **“(i) the applicable Federal rate in effect**  
 21       **under section 1274(d) for the calendar month**  
 22       **in which the obligation is issued, plus**

23           **“(ii) 5 percentage points, and**

24           **“(C) such instrument has significant origi-**  
 25       **nal issue discount.**

1     *For purposes of subparagraph (B)(i), the Secretary*  
 2     *may by regulation permit a rate to be used with respect*  
 3     *to any debt instrument which is higher than the appli-*  
 4     *cable Federal rate if the taxpayer establishes to the sat-*  
 5     *isfaction of the Secretary that such higher rate is based*  
 6     *on the same principles as the applicable Federal rate*  
 7     *and is appropriate for the term of the instrument.*

8             “(2) *SIGNIFICANT ORIGINAL ISSUE DIS-*  
 9     *COUNT.—For purposes of paragraph (1)(C), a debt in-*  
 10    *strument shall be treated as having significant original*  
 11    *issue discount if—*

12                 “(A) *the aggregate amount which would be*  
 13         *includible in gross income with respect to such in-*  
 14         *strument for periods before the close of any accru-*  
 15         *al period (as defined in section 1272(a)(5))*  
 16         *ending after the date 5 years after the date of*  
 17         *issue, exceeds—*

18                 “(B) *the sum of—*

19                         “(i) *the aggregate amount of interest to*  
 20                         *be paid under the instrument before the close*  
 21                         *of such accrual period, and*

22                         “(ii) *the product of the issue price of*  
 23                         *such instrument (as defined in sections*  
 24                         *1273(b) and 1274(a)) and its yield to*  
 25                         *maturity.*

1           “(3) *SPECIAL RULES.*—For purposes of deter-  
2           mining whether a debt instrument is an applicable  
3           high yield discount obligation—

4                     “(A) any payment under the instrument  
5                     shall be assumed to be made on the last day per-  
6                     mitted under the instrument, and

7                     “(B) any payment to be made in the form of  
8                     another obligation (or stock) of the issuer (or a re-  
9                     lated person within the meaning of section  
10                    453(f)(1)) shall be assumed to be made when such  
11                    obligation (or stock) is required to be paid in cash  
12                    or in property other than such obligation (or  
13                    stock).

14           “(4) *DEBT INSTRUMENT.*—For purposes of this  
15           subsection, the term ‘debt instrument’ means any in-  
16           strument which is a debt instrument as defined in sec-  
17           tion 1275(a).

18           “(5) *REGULATIONS.*—The Secretary shall pre-  
19           scribe such regulations as may be appropriate to carry  
20           out the purposes of this subsection, including—

21                     “(A) regulations providing for modifications  
22                     to the provisions of this subsection in the case of  
23                     varying rates of interest, put or call options, in-  
24                     definite maturities, contingent payments, assump-  
25                     tions of debt instruments, conversion rights, or

1        *other circumstances where such modifications are*  
 2        *appropriate to carry out the purposes of this sub-*  
 3        *section, and*

4                *“(B) regulations to prevent avoidance of the*  
 5        *purposes of this subsection through the use of is-*  
 6        *suers other than C corporations, agreements to*  
 7        *borrow amounts due under the debt instrument, or*  
 8        *other arrangements.”*

9        *(c) EFFECTIVE DATE.—*

10                *(1) IN GENERAL.—Except as provided in para-*  
 11        *graph (2), the amendments made by this section shall*  
 12        *apply to instruments issued after July 10, 1989.*

13                *(2) EXCEPTIONS.—*

14                *(A) The amendments made by this section*  
 15        *shall not apply to any instrument if—*

16                        *(i) such instrument is issued in connec-*  
 17        *tion with an acquisition—*

18                                *(I) which is made on or before*  
 19        *July 10, 1989,*

20                                *(II) for which there was a written*  
 21        *binding contract in effect on July 10,*  
 22        *1989, and at all times thereafter before*  
 23        *such acquisition, or*

24                                *(III) for which a tender offer was*  
 25        *filed with the Securities and Exchange*

1                   *Commission on or before July 10,*  
2                   *1989,*

3                   *(ii) the term of such instrument is not*  
4                   *greater than—*

5                   *(I) the term specified in the writ-*  
6                   *ten documents described in clause (iii),*  
7                   *or*

8                   *(II) if no term is determined*  
9                   *under subclause (I), 10 years, and*

10                  *(iii) the use of such instrument in con-*  
11                  *nection with such acquisition (and the maxi-*  
12                  *mum amount of proceeds from such instru-*  
13                  *ment) was determined on or before July 10,*  
14                  *1989, and such determination is evidenced*  
15                  *by written documents—*

16                  *(I) which were transmitted on or*  
17                  *before July 10, 1989 between the issuer*  
18                  *and any governmental regulatory bodies*  
19                  *or prospective parties to the issuance or*  
20                  *acquisition, and*

21                  *(II) which are customarily used*  
22                  *for the type of acquisition or financing*  
23                  *involved.*

24                  *(B) The amendments made by this section*  
25                  *shall not apply to any instrument issued pursuant*

1       to the terms of a debt instrument issued on or  
2       before July 10, 1989, or described in subpara-  
3       graph (A) or (D).

4               (C) The amendments made by this section  
5       shall not apply to any instrument issued to refi-  
6       nance an original issue discount debt instrument  
7       to which the amendments made by this section do  
8       not apply if—

9               (i) the maturity date of the refinancing  
10       instrument is not later than the maturity  
11       date of the refinanced instrument,

12              (ii) the issue price of the refinancing in-  
13       strument does not exceed the adjusted issue  
14       price of the refinanced instrument,

15              (iii) the stated redemption price at ma-  
16       turity of the refinancing instrument is not  
17       greater than the stated redemption price at  
18       maturity of the refinanced instrument, and

19              (iv) the interest payments required  
20       under the refinancing instrument before ma-  
21       turity are not less than (and are paid not  
22       later than) the interest payments required  
23       under the refinanced instrument.

24               (D) The amendments made by this section  
25       shall not apply to instruments issued after

1           *July 10, 1989, pursuant to a reorganization plan*  
 2           *in a title 11 or similar case (as defined in section*  
 3           *368(a)(3) of the Internal Revenue Code of 1986)*  
 4           *if the amount of proceeds of such instruments,*  
 5           *and the maturities of such instruments, do not*  
 6           *exceed the amount or maturities specified in the*  
 7           *last reorganization plan filed in such case on or*  
 8           *before July 10, 1989.*

9   **SEC. 6203. SECTION 351 MADE INAPPLICABLE TO CERTAIN**  
 10           **TRANSFERS OF SECURITIES.**

11           **(a) GENERAL RULE.**—*Section 351(a) (relating to non-*  
 12           *recognition in cases of transfers to corporations controlled by*  
 13           *transferor) is amended by striking “or securities”.*

14           **(b) EXCEPTIONS FOR CERTAIN EXCHANGES.**—*Sec-*  
 15           *tion 351 is amended by redesignating subsection (g) as sub-*  
 16           *section (h) and by inserting after subsection (f) the following*  
 17           *new subsection:*

18           **“(g) CERTAIN TRANSFERORS PERMITTED TO RE-**  
 19           **CEIVE SECURITIES WITHOUT RECOGNITION OF GAIN OR**  
 20           **LOSS.—**

21           **“(1) IN GENERAL.**—*In the case of the following*  
 22           *exchanges, subsections (a), (b), (d), and (e) shall be ap-*  
 23           *plied by substituting ‘stock or securities’ for ‘stock’:*

24                   **“(A) Any exchange in pursuance of a plan**  
 25                   *of reorganization.*

1           “(B) *Any exchange where the stock or secu-*  
 2           *rities received in the exchange are distributed in a*  
 3           *transaction to which section 355 (or so much of*  
 4           *section 356 as relates to section 355) applies.”*

5           (c) *CONFORMING AMENDMENTS.*—Subsections (b),  
 6 (d), and (e)(2) of section 351 are each amended by striking  
 7 “or securities”.

8           (d) *EFFECTIVE DATE.*—

9           (1) *IN GENERAL.*—Except as provided in this  
 10 subsection, the amendments made by this section shall  
 11 apply to transfers after October 2, 1989, in taxable  
 12 years ending after such date.

13           (2) *BINDING CONTRACT.*—The amendments  
 14 made by this section shall not apply to any transfer  
 15 pursuant to a written binding contract in effect on Oc-  
 16 tober 2, 1989, and at all times thereafter before such  
 17 transfer.

18           (3) *CORPORATE TRANSFERS.*—In the case of  
 19 property transferred (directly or indirectly through a  
 20 partnership or otherwise) by a C corporation, para-  
 21 graphs (1) and (2) shall be applied by substituting  
 22 “July 11, 1989” for “October 2, 1989”. The preceding  
 23 sentence shall not apply where the corporation meets  
 24 the requirements of section 1504(a)(2) of the Internal  
 25 Revenue Code of 1986 with respect to the transferee



1 corporation (and where the transfer is not part of a  
2 plan pursuant to which the transferor subsequently  
3 fails to meet such requirements.)

4 **SEC. 6204. PROVISIONS RELATED TO REGULATED INVESTMENT**  
5 **COMPANIES.**

6        (a) *REQUIREMENT TO DISTRIBUTE 98 PERCENT OF*  
7 *ORDINARY INCOME.*—

8                   (1) *IN GENERAL.*—Subparagraph (A) of section  
9                   4982(b)(1) (defining required distribution) is amended  
10                  by striking “97 percent” and inserting “98 percent”.

11                   (2) *EFFECTIVE DATE.*—*The amendment made*  
12                   *by paragraph (1) shall apply to calendar years ending*  
13                   *after July 10, 1989.*

14 (b) *TREATMENT OF CERTAIN MUTUAL FUND LOAD*  
15 *CHARGES.*—

16           (1) *IN GENERAL.*—Section 852 (relating to tax-  
17       ation of regulated investment companies and their  
18       shareholders) is amended by adding at the end thereof  
19       the following new subsection:

20           “(f) *TREATMENT OF CERTAIN LOAD CHARGES.*—

21                   “(1) *IN GENERAL.*—If—

“(A) the taxpayer incurs a load charge in  
acquiring stock in a regulated investment compa-  
ny and, by reason of incurring such charge or

1           *making such acquisition, the taxpayer acquires a*  
2           *reinvestment right,*

3           “(B) *such stock is disposed of within 6*  
4           *months of the date on which such stock was ac-*  
5           *quired, and*

6           “(C) *the taxpayer subsequently acquires*  
7           *stock in such regulated investment company or in*  
8           *another regulated investment company and the*  
9           *otherwise applicable load charge is reduced by*  
10          *reason of the reinvestment right,*

11       *the load charge referred to in subparagraph (A) (to the*  
12       *extent it does not exceed the reduction referred to in*  
13       *subparagraph (C)) shall not be taken into account for*  
14       *purposes of determining the amount of gain or loss on*  
15       *the disposition referred to in subparagraph (B). To the*  
16       *extent such charge is not taken into account in deter-*  
17       *mining the amount of such gain or loss, such charge*  
18       *shall be treated as incurred in connection with the ac-*  
19       *quisition referred to in subparagraph (C) (including*  
20       *for purposes of reapplying this paragraph).*

21           “(2) *DEFINITIONS AND SPECIAL RULES.—For*  
22       *purposes of this subsection—*

23           “(A) *LOAD CHARGE.—The term ‘load*  
24       *charge’ means any sales or similar charge in-*  
25       *curring by a person in acquiring stock of a regu-*

1        *lated investment company. Such term does not in-*  
 2        *clude any charge incurred by reason of the rein-*  
 3        *vestment of a dividend.*

4                *“(B) REINVESTMENT RIGHT.—The term*  
 5        *‘reinvestment right’ means any right to acquire*  
 6        *stock of 1 or more other regulated investment com-*  
 7        *panies without the payment of a load charge or*  
 8        *with the payment of a reduced charge.*

9                *“(C) NONRECOGNITION TRANSACTIONS.—*  
 10        *If the taxpayer acquires stock in a regulated in-*  
 11        *vestment company from another person in a trans-*  
 12        *action in which gain or loss is not recognized, the*  
 13        *taxpayer shall succeed to the treatment of such*  
 14        *other person under this subsection.”*

15                *(2) EFFECTIVE DATE.—The amendment made*  
 16        *by paragraph (1) shall apply to charges incurred after*  
 17        *October 3, 1989, in taxable years ending after such*  
 18        *date.*

19        *(c) REGULATED INVESTMENT COMPANIES RE-*  
 20        *QUIRED TO ACCRUE DIVIDENDS ON THE EX-DIVIDEND*  
 21        *DATE.—*

22                *(1) IN GENERAL.—Subsection (b) of section 852*  
 23        *(relating to treatment of companies and shareholders)*  
 24        *is amended by adding at the end thereof the following*  
 25        *new paragraph:*

1           “(9) *DIVIDENDS TREATED AS RECEIVED BY*  
 2           *COMPANY ON EX-DIVIDEND DATE.*—For purposes of  
 3           *this title, any dividend received by a regulated invest-*  
 4           *ment company with respect to any share of stock shall*  
 5           *be treated as received by such company on the later*  
 6           *of—*

7                     “(A) *the date such share became ex-dividend*  
 8                     *with respect to such dividend, or*

9                     “(B) *the date such company acquired such*  
 10                    *share.”*

11           (2) *EFFECTIVE DATE.*—The amendment made  
 12           *by paragraph (1) shall apply to dividends in cases*  
 13           *where the stock becomes ex-dividend after the date of*  
 14           *the enactment of this Act.*

15 **SEC. 6205. LIMITATION ON THRESHOLD REQUIREMENT UNDER**  
 16                     **SECTION 382 BUILT-IN GAIN AND LOSS PROVI-**  
 17                     **SIONS.**

18           (a) *GENERAL RULE.*—Clause (i) of section  
 19           382(h)(3)(B) (relating to threshold requirement) is amended  
 20           to read as follows:

21                     “(i) *IN GENERAL.*—If the amount of  
 22                     *the net unrealized built-in gain or net unre-*  
 23                     *alized built-in loss (determined without*  
 24                     *regard to this subparagraph) of any old loss*  
 25                     *corporation is not greater than the lesser of—*

1                   “(I) 15 percent of the amount de-  
 2                   termined for purposes of subparagraph  
 3                   (A)(i)(I), or

4                   “(II) \$25,000,000,  
 5                   the net unrealized built-in gain or net unre-  
 6                   alized built-in loss shall be zero.”

7       (b) *CONFORMING AMENDMENT TO ADJUSTED CUR-*  
 8       *RENT EARNINGS PREFERENCE.*—Subparagraph (H) of sec-  
 9       tion 56(g)(4) (relating to treatment of certain ownership  
 10      changes) is amended by striking clause (ii) and all that fol-  
 11      lows and inserting the following:

12                   “(ii) there is a net unrealized built-in  
 13                   loss (within the meaning of section 382(h))  
 14                   with respect to such corporation,  
 15                   then the adjusted basis of each asset of such cor-  
 16                   poration (immediately after the ownership change)  
 17                   shall be its proportionate share (determined on the  
 18                   basis of respective fair market values) of the fair  
 19                   market value of the assets of such corporation (de-  
 20                   termined under section 382(h)) immediately  
 21                   before the ownership change.”

22       (c) *EFFECTIVE DATE.*—

23                   (1) *IN GENERAL.*—Except as provided in para-  
 24      graph (2), the amendments made by this section shall

1     *apply to ownership changes and acquisitions after Oc-*  
 2     *tober 2, 1989, in taxable years ending after such date.*

3           (2) *BINDING CONTRACT.*—*The amendments*  
 4     *made by this section shall not apply to any ownership*  
 5     *change or acquisition pursuant to a written binding*  
 6     *contract in effect on October 2, 1989, and at all times*  
 7     *thereafter before such change or acquisition.*

8           (3) *BANKRUPTCY PROCEEDINGS.*—*In the case of*  
 9     *a reorganization described in section 368(a)(1)(G) of*  
 10    *the Internal Revenue Code of 1986, or an exchange of*  
 11    *debt for stock in a title 11 or similar case (as defined*  
 12    *in section 368(a)(3) of such Code), the amendments*  
 13    *made by this section shall not apply to any ownership*  
 14    *change resulting from such a reorganization or proceed-*  
 15    *ing if a petition in such case was filed with the court*  
 16    *before October 3, 1989.*

17    **SEC. 6206. DISTRIBUTIONS ON CERTAIN PREFERRED STOCK**  
 18           **TREATED AS EXTRAORDINARY DIVIDENDS.**

19           (a) *GENERAL RULE.*—*Section 1059 (relating to corpo-*  
 20    *rate shareholder's basis in stock reduced by nontaxed portion*  
 21    *of extraordinary dividends) is amended by striking subsec-*  
 22    *tion (f) and inserting the following:*

23           “(f) *TREATMENT OF DIVIDENDS ON CERTAIN PRE-*  
 24    *ferred Stock.*—

1           “(1) *IN GENERAL.*—Any dividend with respect to  
 2           disqualified preferred stock shall be treated as an ex-  
 3           traordinary dividend to which paragraphs (1) and (2)  
 4           of subsection (a) apply without regard to the period the  
 5           taxpayer held the stock.

6           “(2) *DISQUALIFIED PREFERRED STOCK.*—For  
 7           purposes of this subsection, the term ‘disqualified pre-  
 8           ferred stock’ means any stock which is preferred as to  
 9           dividends if—

10           “(A) when issued, such stock has a dividend  
 11           rate which declines (or can reasonably be expected  
 12           to decline) in the future,

13           “(B) the issue price of such stock exceeds its  
 14           liquidation rights or its stated redemption price,  
 15           or

16           “(C) such stock is otherwise structured—

17           “(i) to avoid the other provisions of this  
 18           section, and

19           “(ii) to enable corporate shareholders to  
 20           reduce tax through a combination of dividend  
 21           received deductions and loss on the disposi-  
 22           tion of the stock.

23           “(g) *REGULATIONS.*—The Secretary shall prescribe  
 24           such regulations as may be appropriate to carry out the pur-  
 25           poses of this section, including regulations—

1           “(1) providing for the application of this section  
 2           in the case of stock dividends, stock splits, reorganiza-  
 3           tions, and other similar transactions and in the case of  
 4           stock held by pass-thru entities, and

5           “(2) providing that the rules of subsection (f)  
 6           shall apply in the case of stock which is not preferred  
 7           as to dividends in cases where stock is structured to  
 8           avoid the purposes of this section.”

9           (b) *EFFECTIVE DATE.*—

10           (1) *IN GENERAL.*—Except as provided in para-  
 11           graph (2), the amendment made by subsection (a) shall  
 12           apply to stock issued after July 10, 1989, in taxable  
 13           years ending after such date.

14           (2) *BINDING CONTRACT.*—The amendment made  
 15           by subsection (a) shall not apply to any stock issued  
 16           pursuant to a written binding contract in effect on  
 17           July 10, 1989, and at all times thereafter before the  
 18           stock is issued.

19   **SEC. 6207. REPEAL OF ELECTION TO REDUCE EXCESS LOSS AC-**  
 20                           **COUNT RECAPTURE BY REDUCING BASIS OF**  
 21                           **INDEBTEDNESS.**

22           (a) *GENERAL RULE.*—Subsection (e) of section 1503  
 23           (relating to special rule for determining adjustment to basis)  
 24           is amended by adding at the end thereof the following new  
 25           paragraph:



1           “(4) *ELIMINATION OF ELECTION TO REDUCE*  
 2           *BASIS OF INDEBTEDNESS.*—*Nothing in the regula-*  
 3           *tions prescribed under section 1502 shall permit any*  
 4           *reduction in the amount otherwise included in gross*  
 5           *income by reason of an excess loss account if such re-*  
 6           *duction is on account of a reduction in the basis of in-*  
 7           *debtedness.”*

8           **(b) EFFECTIVE DATE.**—

9           (1) *IN GENERAL.*—*Except as provided in para-*  
 10          *graph (2), the amendment made by subsection (a) shall*  
 11          *apply to dispositions after July 10, 1989, in taxable*  
 12          *years ending after such date.*

13          (2) *BINDING CONTRACT.*—*The amendment made*  
 14          *by subsection (a) shall not apply to any disposition*  
 15          *pursuant to a written binding contract in effect on*  
 16          *July 10, 1989, and at all times thereafter before such*  
 17          *disposition.*

18       **SEC. 6208. OTHER PROVISIONS RELATING TO TREATMENT OF**  
 19               **STOCK AND DEBT; ETC.**

20          **(a) CLARIFICATION OF REGULATORY AUTHORITY**  
 21       **UNDER SECTION 385.**—

22          (1) *IN GENERAL.*—*Subsection (a) of section 385*  
 23          *(relating to treatment of certain interests in corpora-*  
 24          *tions as stock or indebtedness) is amended by inserting*

1       “(or as in part stock and in part indebtedness)” before  
2       the period at the end thereof.

3           (2) *REGULATIONS NOT TO BE APPLIED RETRO-*  
4       *ACTIVELY.*—Any regulations issued pursuant to the  
5       authority granted by the amendment made by para-  
6       graph (1) shall only apply with respect to instruments  
7       issued after the date on which the Secretary of the  
8       Treasury or his delegate provides public guidance as to  
9       the characterization of such instruments whether by  
10      regulation, ruling, or otherwise.

11      (b) *REPORTING OF CERTAIN ACQUISITIONS OR RE-*  
12      *CAPITALIZATIONS.*—

13           (1) *IN GENERAL.*—Section 6043 is amended by  
14      striking subsection (c) and inserting the following new  
15      subsections:

16      “(c) *CHANGES IN CONTROL AND RECAPITALIZA-*  
17      *TIONS.*—If—

18           “(1) control (as defined in section 304(c)(1)) of a  
19      corporation is acquired by any person (or group of per-  
20      sons) in a transaction (or series of related transac-  
21      tions), or

22           “(2) there is a recapitalization of a corporation or  
23      other substantial change in the capital structure of a  
24      corporation,

1 *when required by the Secretary, such corporation shall make*  
 2 *a return (at such time and in such manner as the Secretary*  
 3 *may prescribe) setting forth the identity of the parties to the*  
 4 *transaction, the fees involved, the changes in the capital*  
 5 *structure involved, and such other information as the Secre-*  
 6 *tary may require with respect to such transaction.*

7 *“(d) CROSS REFERENCES.—*

*“For provisions relating to penalties for failure to file—*

*“(1) a return under subsection (b), see section*  
 6652(c), or

*“(2) a return under subsection (c), see section*  
 6652(l).”

8 *(2) PENALTY.—Section 6652 is amended by*  
 9 *redesignating subsection (l) as subsection (m) and by*  
 10 *inserting after subsection (k) the following new*  
 11 *subsection:*

12 *“(l) FAILURE TO FILE RETURN WITH RESPECT TO*  
 13 *CERTAIN CORPORATE TRANSACTIONS.—In the case of any*  
 14 *failure to make a return required under section 6043(c) con-*  
 15 *taining the information required by such section on the date*  
 16 *prescribed therefor (determined with regard to any extension*  
 17 *of time for filing), unless it is shown that such failure is due*  
 18 *to reasonable cause, there shall be paid (on notice and*  
 19 *demand by the Secretary and in the same manner as tax) by*  
 20 *the person failing to file such return, an amount equal to*  
 21 *\$500 for each day during which such failure continues, but*  
 22 *the total amount imposed under this subsection with respect*  
 23 *to any return shall not exceed \$100,000.”*

1           (3) *CONFORMING AMENDMENTS.*—

2           (A) *The subsection heading for subsection (a)*  
 3           *of section 6043 is amended by striking “CORPO-*  
 4           *RATIONS” and inserting “CORPORATE LIQUI-*  
 5           *DATING, ETC., TRANSACTIONS”.*

6           (B) *The section heading for section 6043 is*  
 7           *amended to read as follows:*

8           “*SEC. 6043. LIQUIDATING; ETC., TRANSACTIONS.*”

9           (C) *The table of sections for subpart B of*  
 10           *part III of subchapter A of chapter 61 is amend-*  
 11           *ed by striking the item relating to section 6043*  
 12           *and inserting the following:*

          “*Sec. 6043. Liquidating; etc., transactions.*”

13           (4) *EFFECTIVE DATE.*—*The amendments made*  
 14           *by this subsection shall apply to transactions after*  
 15           *March 31, 1990.*

16           *SEC. 6209. ESTIMATED TAX PAYMENTS REQUIRED FOR S COR-*  
 17           *PORATIONS.*

18           (a) *IN GENERAL.*—*Subsection (g) of section 6655 (re-*  
 19           *lating to failure by corporation to pay estimated income tax)*  
 20           *is amended by adding at the end thereof the following new*  
 21           *paragraph:*

22           “(4) *APPLICATION OF SECTION TO CERTAIN*  
 23           *TAXES IMPOSED ON S CORPORATIONS.*—*In the case*  
 24           *of an S corporation, for purposes of this section—*

1           “(A) *The following taxes shall be treated as*  
2           *imposed by section 11:*

3                   “(i) *The tax imposed by section*  
4                   *1374(a) (or the corresponding provisions of*  
5                   *prior law).*

6                   “(ii) *The tax imposed by section*  
7                   *1375(a).*

8                   “(iii) *Any tax for which the S corpora-*  
9                   *tion is liable by reason of section 1371(d)(2).*

10                  “(B) *Paragraph (2) of subsection (d) shall*  
11                  *not apply.*

12                  “(C) *Clause (ii) of subsection (d)(1)(B)*  
13                  *shall be applied as if it read as follows:*

14                   “ ‘(i) *the sum of—*

15                           “ ‘(I) *the amount determined*  
16                           *under clause (i) by only taking into ac-*  
17                           *count the taxes referred to in clauses (i)*  
18                           *and (iii) of subsection (g)(4)(A), and*

19                                   “ ‘(II) *100 percent of the tax im-*  
20                                   *posed by section 1375(a) which was*  
21                                   *shown on the return of the corporation*  
22                                   *for the preceding taxable year.’*

23                  “(D) *The requirement in the last sentence of*  
24                  *subsection (d)(1)(B) that the return for the preced-*

1           *ing taxable year show a liability for tax shall not*  
 2           *apply.*

3           “(E) Any reference in subsection (e) to tax-  
 4           *able income shall be treated as including a refer-*  
 5           *ence to the net recognized built-in gain or the*  
 6           *excess passive income (as the case may be).”*

7           (b) *EFFECTIVE DATE.*—*The amendment made by*  
 8           *subsection (a) shall apply to taxable years beginning after*  
 9           *December 31, 1989.*

10   **SEC. 6210. LIMITATIONS ON REFUNDS DUE TO NET OPERATING**  
 11           **LOSS CARRYBACKS OR EXCESS INTEREST ALLO-**  
 12           **CABLE TO CORPORATE EQUITY REDUCTION**  
 13           **TRANSACTIONS.**

14           (a) *IN GENERAL.*—*Paragraph (1) of section 172(b)*  
 15           *(relating to which loss may be carried) is amended by adding*  
 16           *at the end thereof the following new subparagraph:*

17                   “(M) *EXCESS INTEREST LOSS.*—

18                           “(i) *IN GENERAL.*—*If—*

19                                   “(I) *there is a corporate equity re-*  
 20                                   *duction transaction, and*

21                                   “(II) *an applicable corporation has*  
 22                                   *a corporate equity reduction interest*  
 23                                   *loss for any loss limitation year ending*  
 24                                   *after August 2, 1989,*

1            *then the corporate equity reduction interest*  
 2            *loss shall be a net operating loss carryback*  
 3            *and carryover to the taxable years described*  
 4            *in subparagraphs (A) and (B), except that*  
 5            *such loss shall not be carried back to a tax-*  
 6            *able year preceding the taxable year in*  
 7            *which the corporate equity reduction transac-*  
 8            *tion occurs.*

9            *“(ii) LOSS LIMITATION YEAR.—For*  
 10           *purposes of clause (i) and subsection (m), the*  
 11           *term ‘loss limitation year’ means, with re-*  
 12           *spect to any corporate equity reduction trans-*  
 13           *action, the taxable year in which such trans-*  
 14           *action occurs and each of the 2 succeeding*  
 15           *taxable years.*

16           *“(iii) APPLICABLE CORPORATION.—*  
 17           *For purposes of clause (i), the term ‘applica-*  
 18           *ble corporation’ means—*

19           *“(I) a C corporation which ac-*  
 20           *quires stock, or the stock of which is ac-*  
 21           *quired, in a major stock acquisition,*

22           *“(II) a C corporation which makes*  
 23           *distributions with respect to, or redeems,*  
 24           *its stock in connection with an excess*  
 25           *distribution, or*

1                   “(III) any C corporation which is  
2                   a successor corporation of a corporation  
3                   described in subclause (I) or (II).

4                   “(iv) OTHER DEFINITIONS.—For defi-  
5                   nitions of terms used in this subparagraph,  
6                   see subsection (m).”

7       (b) CORPORATE EQUITY REDUCTION INTEREST  
8 LOANS AND CORPORATE EQUITY REDUCTION TRANSAC-  
9 TION DEFINED.—Section 172 is amended by redesignating  
10 subsection (m) as subsection (n) and by inserting after sub-  
11 section (l) the following new subsection:

12       “(m) CORPORATE EQUITY REDUCTION INTEREST  
13 LOSSES.—For purposes of this section—

14               “(1) IN GENERAL.—The term ‘corporate equity  
15       reduction interest loss’ means, with respect to any loss  
16       limitation year, the excess (if any) of—

17               “(A) the net operating loss for such taxable  
18       year, over

19               “(B) the net operating loss for such taxable  
20       year determined without regard to any allocable  
21       interest deductions otherwise taken into account in  
22       computing such loss.

23       “(2) ALLOCABLE INTEREST DEDUCTIONS.—

24               “(A) IN GENERAL.—The term ‘allocable in-  
25       terest deductions’ means deductions allowed under



1        *this chapter for interest on the portion of any in-*  
2        *debtedness allocable to a corporate equity reduc-*  
3        *tion transaction.*

4                *“(B) METHOD OF ALLOCATION.—Except as*  
5        *provided in regulations and subparagraph (E),*  
6        *indebtedness shall be allocated to a corporate*  
7        *equity reduction transaction in the manner pre-*  
8        *scribed under clause (ii) of section 263A(f)(2)(A)*  
9        *(without regard to clause (i) thereof).*

10               *“(C) ALLOCABLE DEDUCTIONS NOT TO*  
11        *EXCEED INTEREST INCREASES.—Allocable in-*  
12        *terest deductions for any loss limitation year shall*  
13        *not exceed the excess (if any) of—*

14               *“(i) the amount allowable as a deduc-*  
15        *tion for interest paid or accrued by the tax-*  
16        *payer during the loss limitation year, over*

17               *“(ii) the average of such amounts for*  
18        *the 3 taxable years preceding the taxable*  
19        *year in which the corporate equity reduction*  
20        *transaction occurred.*

21               *“(D) DE MINIMIS RULE.—A taxpayer shall*  
22        *be treated as having no allocable interest deduc-*  
23        *tions for any taxable year if the amount of such*  
24        *deductions (without regard to this subparagraph)*  
25        *is less than \$1,000,000.*

1           “(E) *SPECIAL RULE FOR CERTAIN UN-*  
2           *FORESEEABLE EVENTS.—If an unforeseeable ex-*  
3           *traordinary adverse event occurs during a loss*  
4           *limitation year but after the corporate equity re-*  
5           *duction transaction—*

6                     “(i) *indebtedness shall be allocated in*  
7                     *the manner described in subparagraph (B) to*  
8                     *unreimbursed costs paid or incurred in con-*  
9                     *nection with such event before being allocated*  
10                    *to the corporate equity reduction transaction,*  
11                    *and*

12                   “(ii) *the amount determined under sub-*  
13                    *paragraph (C)(i) shall be reduced by the*  
14                    *amount of interest on indebtedness described*  
15                    *in clause (i).*

16           “(F) *TRANSITION RULE.—If any of the 3*  
17           *taxable years described in subparagraph (C)(ii)*  
18           *end on or before August 2, 1989, the taxpayer*  
19           *may substitute for the amount determined under*  
20           *such subparagraph an amount equal to the inter-*  
21           *est paid or accrued (determined on an annualized*  
22           *basis) during the taxpayer's taxable year which*  
23           *includes August 3, 1989, on indebtedness of the*  
24           *taxpayer outstanding on August 2, 1989.*

1           “(3) *CORPORATE EQUITY REDUCTION TRANSAC-*  
2           *TION.—*

3                   “(A) *IN GENERAL.—The term ‘corporate*  
4                   *equity reduction transaction’ means—*

5                           “(i) *a major stock acquisition, or*

6                           “(ii) *an excess distribution.*

7                   “(B) *MAJOR STOCK ACQUISITION.—*

8                           “(i) *IN GENERAL.—The term ‘major*  
9                           *stock acquisition’ means the acquisition by a*  
10                          *corporation pursuant to a plan of such corpo-*  
11                          *ration (or any group of persons acting in*  
12                          *concert with such corporation) of stock in an-*  
13                          *other corporation representing 50 percent or*  
14                          *more (by vote or value) of the stock in such*  
15                          *other corporation,*

16                           “(ii) *EXCEPTIONS.—The term ‘major*  
17                          *stock acquisition’ shall not include—*

18                                   “(I) *a qualified stock purchase*  
19                                   *(within the meaning of section 338) to*  
20                                   *which an election under section 338 ap-*  
21                                   *plies, or*

22                                   “(II) *except as provided in regula-*  
23                                   *tions, an acquisition in which a corpo-*  
24                                   *ration acquires stock of another corpora-*  
25                                   *tion which, immediately before the ac-*

1                    *quisition, was a member of an affiliated*  
2                    *group (within the meaning of section*  
3                    *1504(a)) other than the common parent*  
4                    *of such group.*

5                    *“(C) EXCESS DISTRIBUTION.—The term*  
6                    *‘excess distribution’ means the excess (if any)*  
7                    *of—*

8                    *“(i) the aggregate distributions (includ-*  
9                    *ing redemptions) made during a taxable year*  
10                   *by a corporation with respect to its stock,*  
11                   *over*

12                   *“(ii) the greater of—*

13                   *“(I) 150 percent of the average of*  
14                   *such distributions during the 3 taxable*  
15                   *years immediately preceding such tax-*  
16                   *able year, or*

17                   *“(II) 10 percent of the fair market*  
18                   *value of the stock of such corporation as*  
19                   *of the beginning of such taxable year.*

20                   *“(D) RULES FOR APPLYING SUBPARA-*  
21                   *GRAPH (B).—For purposes of subparagraph (B)—*

22                   *“(i) PLANS TO ACQUIRE STOCK.—All*  
23                   *plans referred to in subparagraph (B) by*  
24                   *any corporation (or group of persons acting*  
25                   *in concert with such corporation) with re-*

1                    *spect to another corporation shall be treated*  
 2                    *as 1 plan.*

3                    “(ii) *ACQUISITIONS DURING 24-MONTH*  
 4                    *PERIOD.—All acquisitions during any 24-*  
 5                    *month period shall be treated as pursuant to*  
 6                    *1 plan.*

7                    “(E) *RULES FOR APPLYING SUBPARA-*  
 8                    *GRAPH (C).—For purposes of subparagraph (C)—*

9                    “(i) *CERTAIN PREFERRED STOCK DIS-*  
 10                    *REGARDED.—Stock described in section*  
 11                    *1504(a)(4), and distributions (including re-*  
 12                    *demptions) with respect to such stock, shall*  
 13                    *be disregarded.*

14                    “(ii) *ISSUANCE OF STOCK.—The*  
 15                    *amounts determined under clauses (i) and*  
 16                    *(ii)(I) of subparagraph (C) shall be reduced*  
 17                    *by the aggregate amount of stock issued by*  
 18                    *the corporation during the applicable period*  
 19                    *in exchange for money or property other than*  
 20                    *stock in the corporation.*

21                    “(4) *OTHER RULES.—*

22                    “(A) *ORDERING RULE.—For purposes of*  
 23                    *paragraph (1), in determining the allocable inter-*  
 24                    *est deductions taken into account in computing*  
 25                    *the net operating loss for any taxable year, tax-*

1        *able income for such taxable year shall be treated*  
2        *as having been computed by taking allocable in-*  
3        *terest deductions into account after all other*  
4        *deductions.*

5                *“(B) COORDINATION WITH SUBSECTION*  
6        *(B)(2).—In applying paragraph (2) of subsection*  
7        *(b), the corporate equity reduction interest loss*  
8        *shall be treated in a manner similar to the*  
9        *manner in which a foreign expropriation loss is*  
10       *treated.*

11               *“(C) MEMBERS OF AFFILIATED GROUPS.—*  
12       *Except as provided by regulations, all members of*  
13       *an affiliated group filing a consolidated return*  
14       *under section 1501 shall be treated as 1 taxpayer*  
15       *for purposes of this subsection and subsection*  
16       *(b)(1)(M).*

17               *“(5) REGULATIONS.—The Secretary shall pre-*  
18       *scribe such regulations as may be necessary to carry*  
19       *out the purposes of this subsection, including*  
20       *regulations—*

21               *“(A) for applying this subsection to successor*  
22       *corporations and in cases where a taxpayer be-*  
23       *comes, or ceases to be, a member of an affiliated*  
24       *group filing a consolidated return under section*  
25       *1501,*

1           “(B) to prevent the avoidance of this subsec-  
2           tion through related parties, pass-through entities,  
3           and intermediaries, and

4           “(C) for applying this subsection where more  
5           than 1 corporation is involved in a corporate  
6           equity reduction transaction.

7           (c) *EFFECTIVE DATE.*—

8           (1) *IN GENERAL.*—Except as provided in this  
9           subsection, the amendments made by this section shall  
10          apply to corporate equity reduction transactions occur-  
11          ring after August 2, 1989, in taxable years ending  
12          after August 2, 1989.

13          (2) *EXCEPTIONS.*—In determining whether a  
14          corporate equity reduction transaction has occurred  
15          after August 2, 1989, there shall not be taken into  
16          account—

17                (A) acquisitions or redemptions of stock, or  
18                distributions with respect to stock, occurring on or  
19                before August 2, 1989,

20                (B) acquisitions or redemptions of stock after  
21                August 2, 1989, pursuant to a binding written  
22                contract (or tender offer filed with the Securities  
23                and Exchange Commission) in effect on August  
24                2, 1989, and at all times thereafter before such  
25                acquisition or redemption, or

1           (C) any distribution with respect to stock  
 2           after August 2, 1989, which was declared on or  
 3           before August 2, 1989.

4           Any distribution to which the preceding sentence ap-  
 5           plies shall be taken into account under section  
 6           172(m)(3)(C)(ii)(I) of the Internal Revenue Code of  
 7           1986 (relating to base period for distributions).

8           **Subtitle B—Employee Benefit**  
 9           **Provisions**

10   **SEC. 6301. LIMITATIONS ON PARTIAL EXCLUSION OF INTEREST**  
 11           **ON LOANS USED TO ACQUIRE EMPLOYER SECU-**  
 12           **RITIES.**

13           (a) **EXCLUSION AVAILABLE ONLY WHERE EMPLOY-**  
 14           **EES RECEIVE SIGNIFICANT OWNERSHIP INTEREST.—**  
 15           Subsection (b) of section 133 (defining securities acquisition  
 16           loans) is amended by adding at the end thereof the following  
 17           new paragraph:

18           “(6) **PLAN MUST HOLD 30 PERCENT OF STOCK**  
 19           **AFTER ACQUISITION OR TRANSFER.—**

20           “(A) **IN GENERAL.—**A loan shall not be  
 21           treated as a securities acquisition loan for pur-  
 22           poses of this section unless, immediately after the  
 23           acquisition or transfer referred to in subparagraph  
 24           (A) or (B) of paragraph (1), respectively, the em-



1            *ployee stock ownership plan owns (after applica-*  
 2            *tion of section 318(a)(4)) at least 30 percent of—*

3                    *“(i) each class of outstanding stock of*  
 4                    *the corporation issuing the employer securi-*  
 5                    *ties, or*

6                    *“(ii) the total value of all outstanding*  
 7                    *stock of the corporation.*

8                    *“(B) STOCK.—For purposes of subpara-*  
 9                    *graph (A)—*

10                    *“(i) IN GENERAL.—The term ‘stock’*  
 11                    *means stock other than stock described in*  
 12                    *section 1504(a)(4).*

13                    *“(ii) TREATMENT OF CERTAIN*  
 14                    *RIGHTS.—The Secretary may provide that*  
 15                    *warrants, options, contracts to acquire stock,*  
 16                    *convertible debt interests and other similar*  
 17                    *interests be treated as stock for 1 or more*  
 18                    *purposes under subparagraph (A).”.*

19            *(b) TERM OF LOAN MAY NOT EXCEED 15 YEARS.—*  
 20            *Paragraph (1) of section 133(b) is amended by adding at the*  
 21            *end thereof the following new sentence: “The term ‘securities*  
 22            *acquisition loan’ shall not include a loan with a term greater*  
 23            *than 15 years.”*

1       (c) *VOTING RIGHTS*.—Subsection (b) of section 133, as  
 2       amended by subsection (a), is amended by adding at the end  
 3       thereof the following new paragraph:

4               “(7) *VOTING RIGHTS OF EMPLOYER SECURI-*  
 5       *TIES*.—A loan shall not be treated as a securities ac-  
 6       quisition loan for purposes of this section unless—

7               “(A) the employee stock ownership plan  
 8       meets the requirements of section 409(e)(2) with  
 9       respect to all employer securities acquired by, or  
 10      transferred to, the plan in connection with such  
 11      loan (without regard to whether or not the employ-  
 12      er has a registration-type class of securities), and

13              “(B) no stock described in section 409(l)(3)  
 14      is acquired by, or transferred to, the plan in con-  
 15      nection with such loan unless—

16              “(i) such stock has voting rights equiva-  
 17      lent to the stock to which it may be convert-  
 18      ed, and

19              “(ii) the requirements of subparagraph  
 20      (A) are met with respect to such voting  
 21      rights.”.

22       (d) *TAX ON DISPOSITION OF SECURITIES BY EM-*  
 23       *PLOYEE STOCK OWNERSHIP PLANS*.—

24              (1) *IN GENERAL*.—Chapter 43 is amended by in-  
 25      serting after section 4978A the following new section:

1   ***"SEC. 4978B. TAX ON DISPOSITION OF EMPLOYER SECURITIES***  
2                   ***TO WHICH SECTION 133 APPLIED.***

3           ***"(a) IMPOSITION OF TAX.—****In the case of an employee*  
4 *stock ownership plan which has acquired section 133 securi-*  
5 *ties, there is hereby imposed a tax on each taxable event in*  
6 *an amount equal to the amount determined under subsection*  
7 *(b).*

8           ***"(b) AMOUNT OF TAX.—***

9                   ***"(1) IN GENERAL.—****The amount of the tax im-*  
10 *posed by subsection (a) shall be equal to 10 percent of*  
11 *the amount realized on the disposition to the extent al-*  
12 *locable to section 133 securities under section*  
13 *4978A(d).*

14                   ***"(2) DISPOSITIONS OTHER THAN SALES OR EX-***  
15 ***CHANGES.—****For purposes of paragraph (1), in the case*  
16 *of a disposition of employer securities which is not a*  
17 *sale or exchange, the amount realized on such disposi-*  
18 *tion shall be the fair market value of such securities at*  
19 *the time of disposition.*

20           ***"(c) TAXABLE EVENT.—****For purposes of this section,*  
21 *the term 'taxable event' means any of the following disposi-*  
22 *tions:*

23                   ***"(1) DISPOSITIONS WITHIN 3 YEARS.—****Any dis-*  
24 *position of any employer securities by an employee*  
25 *stock ownership plan within 3 years after such plan*  
26 *acquired section 133 securities if—*

1           “(A) the total number of employer securities  
2           held by such plan after such disposition is less  
3           than the total number of employer securities held  
4           after such acquisition, or

5           “(B) except to the extent provided in regula-  
6           tions, the value of employer securities held by  
7           such plan after the disposition is less than 30 per-  
8           cent of the total value of all employer securities as  
9           of the time of the disposition.

10          “(2) STOCK DISPOSED OF BEFORE ALLOCA-  
11          TION.—Any disposition of section 133 securities to  
12          which paragraph (1) does not apply if—

13                 “(A) such disposition occurs before such se-  
14                 curities are allocated to accounts of participants  
15                 or their beneficiaries, and

16                 “(B) the proceeds from such disposition are  
17                 not so allocated.

18          “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
19          poses of this section—

20                 “(1) EXCEPTIONS.—Rules similar to the rules of  
21                 section 4978A(e) shall apply.

22                 “(2) LIABILITY FOR PAYMENT OF TAXES.—The  
23                 tax imposed by this section shall be paid by the  
24                 employer.

1           “(3) *SECTION 133 SECURITIES.*—The term ‘sec-  
 2           tion 133 securities’ means employer securities acquired  
 3           by an employee stock ownership plan in a transaction  
 4           to which section 133 applied, except that such term  
 5           shall not include—

6                     “(A) qualified securities (as defined in sec-  
 7                     tion 4978(e)(2)), or

8                     “(B) qualified employer securities (as de-  
 9                     fined in section 4978A(f)(2)).

10           “(4) *DISPOSITION.*—The term ‘disposition’ in-  
 11           cludes any distribution.

12           “(5) *ORDERING RULES.*—For ordering rules for  
 13           dispositions of employer securities, see section  
 14           4978A(d).”

15           (2) *CONFORMING AMENDMENTS.*—

16                     (A) Section 4978A(d) is amended by redes-  
 17                     ignating paragraphs (3) and (4) as paragraphs  
 18                     (5) and (6) and by inserting after paragraph (2)  
 19                     the following new paragraphs:

20                     “(3) Third, from section 133 securities (as de-  
 21                     fined in section 4978B(d)(3)) acquired during the 3-  
 22                     year period ending on the date of such disposition, be-  
 23                     ginning with the securities first so acquired.

24                     “(4) Fourth, from section 133 securities (as so de-  
 25                     fined) acquired before such 3-year period unless such

1        *securities (or proceeds from the disposition) have been*  
 2        *allocated to accounts of participants or beneficiaries.”*

3                *(B) Section 4978A(d)(5), as redesignated by*  
 4        *clause (i), is amended by striking “Third” and*  
 5        *inserting “Fifth”.*

6                *(C) The table of sections for chapter 43 is*  
 7        *amended by inserting after the item relating to*  
 8        *section 4978A the following new item:*

*“Sec. 4978B. Tax on disposition of employer securities to which  
 section 133 applied.”.*

9        *(e) EFFECTIVE DATES.—*

10                *(1) IN GENERAL.—Except as provided in this*  
 11        *subsection, the amendments made by this section shall*  
 12        *apply to loans made after June 6, 1989.*

13                *(2) BINDING COMMITMENT EXCEPTION.—The*  
 14        *amendments made by this section shall not apply to*  
 15        *any loan—*

16                *(A) which is made pursuant to a binding*  
 17        *written commitment in effect on June 6, 1989,*  
 18        *and at all times thereafter before such loan is*  
 19        *made, or*

20                *(B) to the extent that the proceeds of such*  
 21        *loan are used to acquire employer securities pur-*  
 22        *suant to a written binding contract (or tender*  
 23        *offer registered with the Securities and Exchange*  
 24        *Commission) in effect on June 6, 1989, and at*

1           all times thereafter before such securities are  
2           acquired.

3           (3) *REFINANCINGS.*—The amendments made by  
4           this section shall not apply to loans made after June 6,  
5           1989, to refinance securities acquisition loans (deter-  
6           mined without regard to section 133(b)(2) of the Inter-  
7           nal Revenue Code of 1986) made on or before such  
8           date or to refinance loans described in this paragraph  
9           or paragraph (2), (4), or (5) if—

10                (A) such refinancing loans meet the require-  
11                ments of such section 133 of such Code (as in  
12                effect before such amendments) applicable to such  
13                loans,

14                (B) immediately after the refinancing the  
15                principal amount of the loan resulting from the  
16                refinancing does not exceed the principal amount  
17                of the refinanced loan (immediately before the  
18                refinancing), and

19                (C) the term of such refinancing loan does  
20                not extend beyond the later of—

21                        (i) the last day of the term of the origi-  
22                        nal securities acquisition loan, or

23                        (ii) the last day of the 7-year period be-  
24                        ginning on the date the original securities  
25                        acquisition loan was made.

1     *For purposes of this paragraph, the term “securities*  
2     *acquisition loan” shall include a loan from a corpora-*  
3     *tion to an employee stock ownership plan described in*  
4     *section 133(b)(3) of such Code.*

5             (4) *COLLECTIVE BARGAINING AGREEMENTS.—*

6     *The amendments made by this section shall not apply*  
7     *to any loan to the extent such loan is used to acquire*  
8     *employer securities for an employee stock ownership*  
9     *plan pursuant to a collective bargaining agreement set-*  
10    *ting forth the material terms of such employee stock*  
11    *ownership plan which was agreed to on or before June*  
12    *6, 1989, by one or more employers and employee rep-*  
13    *resentatives (and ratified on or before such date or*  
14    *within a reasonable period thereafter).*

15            (5) *FILINGS WITH UNITED STATES.—The*  
16    *amendments made by this section shall not apply to*  
17    *any loan the aggregate principal amount of which was*  
18    *specified in a filing with an agency of the United*  
19    *States on or before June 6, 1989, if—*

20                (A) *such filing specifies such loan is to be a*  
21                *securities acquisition loan for purposes of section*  
22                *133 of the Internal Revenue Code of 1986 and*  
23                *such filing is for the registration required to*  
24                *permit the offering of such loan, or*



1           (B) such filing is for the approval required  
 2           in order for the employee stock ownership plan to  
 3           acquire more than a certain percentage of the  
 4           stock of the employer.

5 **SEC. 6302. LIMITATION ON CONTRIBUTIONS TO SECTION 401(h)**

6 **ACCOUNTS.**

7       (a) *IN GENERAL.*—Section 401(h) is amended by  
 8 adding at the end thereof the following new sentence: “In no  
 9 event shall the requirements of paragraph (1) be treated as  
 10 met if the aggregate actual contributions for medical benefits,  
 11 when added to actual contributions for life insurance protec-  
 12 tion under the plan, exceed 25 percent of the total actual  
 13 contributions to the plan (other than contributions to fund  
 14 past service credits) after the date on which the account is  
 15 established.”

16       (b) *EFFECTIVE DATE.*—The amendment made by this  
 17 section shall apply to contributions after October 3, 1989.

18 **Subtitle C—Foreign Provisions**

19 **SEC. 6401. TAXABLE YEAR OF CERTAIN FOREIGN CORPORA-**  
 20 **TIONS.**

21       (a) *GENERAL RULE.*—Subpart D of part II of sub-  
 22 chapter N of chapter 1 (relating to miscellaneous provisions)  
 23 is amended by adding at the end thereof the following new  
 24 section:

1   **“SEC. 898. TAXABLE YEAR OF CERTAIN FOREIGN CORPORA-**  
 2                                   **TIONS.**

3           “(a) *GENERAL RULE.*—For purposes of this title, the  
 4   taxable year of any specified foreign corporation shall be the  
 5   required year determined under subsection (c).

6           “(b) *SPECIFIED FOREIGN CORPORATION.*—For pur-  
 7   poses of this section—

8                   “(1) *IN GENERAL.*—The term ‘specified foreign  
 9   corporation’ means any foreign corporation—

10                   “(A) which is—

11                           “(i) treated as a controlled foreign cor-  
 12                           poration for any purpose under subpart F of  
 13                           part III of this subchapter, or

14                           “(ii) a foreign personal holding com-  
 15                           pany (as defined in section 552), and

16                   “(B) with respect to which the ownership re-  
 17                   quirements of paragraph (2) are met.

18           “(2) *OWNERSHIP REQUIREMENTS.*—

19                   “(A) *IN GENERAL.*—The ownership require-  
 20                   ments of this paragraph are met with respect to  
 21                   any foreign corporation if a United States share-  
 22                   holder owns, on each testing day, more than 50  
 23                   percent of—

24                           “(i) the total voting power of all classes  
 25                           of stock of such corporation entitled to vote,  
 26                           or

1                   “(i) the total value of all classes of  
2                   stock of such corporation.

3                   “(B) OWNERSHIP.—For purposes of sub-  
4                   paragraph (A), the rules of subsections (a) and (b)  
5                   of section 958 and sections 551(f) and 554,  
6                   whichever are applicable, shall apply in determin-  
7                   ing ownership.

8                   “(3) UNITED STATES SHAREHOLDER.—

9                   “(A) IN GENERAL.—The term ‘United  
10                  States shareholder’ has the meaning given to such  
11                  term by section 951(b), except that, in the case of  
12                  a foreign corporation having related person insur-  
13                  ance income (as defined in section 953(c)(2)), the  
14                  Secretary may treat any person as a United  
15                  States shareholder for purposes of this section if  
16                  such person is treated as a United States share-  
17                  holder under section 953(c)(1).

18                  “(B) FOREIGN PERSONAL HOLDING COM-  
19                  PANIES.—In the case of any foreign personal  
20                  holding company (as defined in section 552)  
21                  which is not a specified foreign corporation by  
22                  reason of paragraph (1)(A)(i), the term ‘United  
23                  States shareholder’ means any person who is  
24                  treated as a United States shareholder under sec-  
25                  tion 551.

1       “(c) *DETERMINATION OF REQUIRED YEAR.*—

2               “(1) *CONTROLLED FOREIGN CORPORATIONS.*—

3                       “(A) *IN GENERAL.*—*In the case of a speci-*  
4                       *fied foreign corporation described in subsection*  
5                       *(b)(1)(A)(i), the required year is—*

6                               “(i) *the majority U.S. shareholder year,*  
7                               *or*

8                               “(ii) *if there is no majority U.S. share-*  
9                               *holder year, the taxable year prescribed*  
10                              *under regulations.*

11                       “(B) *1-MONTH DEFERRAL ALLOWED.*—  
12                       *Except as provided in paragraph (2), a specified*  
13                       *foreign corporation may elect, in lieu of the tax-*  
14                       *able year under subparagraph (A)(i), a taxable*  
15                       *year beginning 1 month earlier than the majority*  
16                       *U.S. shareholder year.*

17                       “(C) *MAJORITY U.S. SHAREHOLDER*  
18                       *YEAR.*—

19                               “(i) *IN GENERAL.*—*For purposes of*  
20                               *this subsection, the term ‘majority U.S.*  
21                               *shareholder year’ means the taxable year (if*  
22                               *any) which, on each testing day, constituted*  
23                               *the taxable year of—*

1                   “(I) each United States sharehold-  
 2                   er described in subsection (b)(2)(A),  
 3                   and

4                   “(II) each United States share-  
 5                   holder not described in subclause (I)  
 6                   whose stock was treated as owned under  
 7                   subsection (b)(2)(B) by any shareholder  
 8                   described in such subclause.

9                   “(i) TESTING DAY.—The testing days  
 10                  shall be—

11                  “(I) the first day of the corpora-  
 12                  tion’s taxable year (determined without  
 13                  regard to this section), or

14                  “(II) the days during such repre-  
 15                  sentative period as the Secretary may  
 16                  prescribe.

17                  “(2) FOREIGN PERSONAL HOLDING COMPA-  
 18                  NIES.—In the case of a foreign personal holding com-  
 19                  pany described in subsection (b)(3)(B), the required  
 20                  year shall be determined under paragraph (1), except  
 21                  that subparagraph (B) of paragraph (1) shall not  
 22                  apply.”

23                  (b) TREATMENT OF DIVIDENDS PAID AFTER CLOSE  
 24                  OF TAXABLE YEAR.—

1           (1) *IN GENERAL.*—Section 563 is amended by  
 2       redesignating subsection (c) as subsection (d) and by  
 3       inserting after subsection (b) the following new sub-  
 4       section:

5       “(c) *FOREIGN PERSONAL HOLDING COMPANY*  
 6       *TAX.*—

7           “(1) *IN GENERAL.*—In the determination of the  
 8       dividends paid deduction for purposes of part III, a  
 9       dividend paid after the close of any taxable year and  
 10      on or before the 15th day of the 3rd month following  
 11      the close of such taxable year shall, to the extent the  
 12      company designates such dividend as being taken into  
 13      account under this subsection, be considered as paid  
 14      during such taxable year. The amount allowed as a de-  
 15      duction by reason of the application of this subsection  
 16      with respect to any taxable year shall not exceed the  
 17      undistributed foreign personal holding company income  
 18      of the corporation for the taxable year computed with-  
 19      out regard to this subsection.

20          “(2) *SPECIAL RULES.*—In the case of any distri-  
 21      bution referred to in paragraph (1)—

22           “(A) paragraph (1) shall apply only if such  
 23      distribution is to the person who was the share-  
 24      holder of record (as of the last day of the taxable  
 25      year of the foreign personal holding company)

1           *with respect to the stock for which such distribu-*  
 2           *tion is made,*

3           “(B) the determination of the person required  
 4           to include such distribution in gross income shall  
 5           be made under the principles of section 551(f),  
 6           and

7           “(C) any person required to include such  
 8           distribution in gross or distributable net income  
 9           shall include such distribution in income for such  
 10          person’s taxable year in which the taxable year of  
 11          the foreign personal holding company ends.”

12          (2) *CONFORMING AMENDMENT.*—Subsection (d)  
 13          of section 563 (as redesignated by paragraph (1)) is  
 14          amended by striking “subsection (a) or (b)” and in-  
 15          serting “subsection (a), (b), or (c)”.

16          (c) *CLERICAL AMENDMENT.*—The table of sections for  
 17          subpart D of part II of subchapter N of chapter 1 is amended  
 18          by adding at the end thereof the following new item:

*“Sec. 898. Taxable year of certain foreign corporations.”*

19          (d) *EFFECTIVE DATE.*—

20               (1) *IN GENERAL.*—The amendments made by  
 21          this section shall apply to taxable years of foreign cor-  
 22          porations beginning after July 10, 1989.

23               (2) *SPECIAL RULES.*—If any foreign corporation  
 24          is required by the amendments made by this section to

1        *change its taxable year for its first taxable year begin-*  
 2        *ning after July 10, 1989—*

3                *(A) such change shall be treated as initiated*  
 4                *by the taxpayer,*

5                *(B) such change shall be treated as having*  
 6                *been made with the consent of the Secretary of the*  
 7                *Treasury or his delegate, and*

8                *(C) if, by reason of such change, any United*  
 9                *States person is required to include in gross*  
 10               *income for 1 taxable year amounts attributable to*  
 11               *2 taxable years of such foreign corporation, the*  
 12               *amount which would otherwise be required to be*  
 13               *included in gross income for such 1 taxable year*  
 14               *by reason of the short taxable year of the foreign*  
 15               *corporation resulting from such change shall be*  
 16               *included in gross income ratably over the 4-tax-*  
 17               *able-year period beginning with such 1 taxable*  
 18               *year.*

19    **SEC. 6402. LIMITATION ON USE OF DECONSOLIDATION TO AVOID**  
 20                **FOREIGN TAX CREDIT LIMITATIONS.**

21        *(a) GENERAL RULE.—Section 904 (relating to limita-*  
 22        *tions on foreign tax credit) is amended by redesignating sub-*  
 23        *section (i) as subsection (j) and by inserting after subsection*  
 24        *(h) the following new subsection:*



1       “(i) *LIMITATION ON USE OF DECONSOLIDATION TO*  
 2 *AVOID FOREIGN TAX CREDIT LIMITATIONS.*—If 2 or  
 3 more domestic corporations would be members of the same  
 4 affiliated group if—

5               “(1) section 1504(b) were applied without regard  
 6 to the exceptions contained therein, and

7               “(2) the constructive ownership rules of section  
 8 1563(e) applied for purposes of section 1504(a),  
 9 the Secretary may by regulations provide for resourcing the  
 10 income of any of such corporations or for modifications to the  
 11 consolidated return regulations to the extent that such re-  
 12 sourcing or modifications are necessary to prevent the avoid-  
 13 ance of the provisions of this subpart.”

14       (b) *EFFECTIVE DATE.*—The amendment made by  
 15 subsection (a) shall apply to taxable years beginning after  
 16 July 10, 1989.

17 **SEC. 6403. INFORMATION WITH RESPECT TO CERTAIN FOREIGN-**  
 18 **OWNED CORPORATIONS.**

19       (a) *25-PERCENT FOREIGN-OWNED CORPORATIONS*  
 20 *REQUIRED TO REPORT.*—

21               (1) Paragraph (2) of section 6038A(a) is amend-  
 22 ed to read as follows:

23               “(2) is 25-percent foreign-owned,”.

24               (2) Subsection (c) of section 6038A is amended to  
 25 read as follows:

1       “(c) *DEFINITIONS.*—*For purposes of this section—*

2               “(1) *25-PERCENT FOREIGN-OWNED.*—*A corpora-*  
3       *tion is 25-percent foreign-owned if at least 25 percent*  
4       *of—*

5               “(A) *the total voting power of all classes of*  
6       *stock of such corporation entitled to vote, or*

7               “(B) *the total value of all classes of stock of*  
8       *such corporation,*  
9       *is owned at any time during the taxable year by 1 for-*  
10       *ign person (hereinafter in this section referred to as a*  
11       *‘25-percent foreign shareholder’).*

12              “(2) *RELATED PARTY.*—*The term ‘related party’*  
13       *means—*

14              “(A) *any 25-percent foreign shareholder of*  
15       *the reporting corporation,*

16              “(B) *any person who is related (within the*  
17       *meaning of section 267(b) or 707(b)(1)) to the re-*  
18       *porting corporation or to a 25-percent foreign*  
19       *shareholder of the reporting corporation, and*

20              “(C) *any other person who is related (within*  
21       *the meaning of section 482) to the reporting corpo-*  
22       *ration.*

23              “(4) *FOREIGN PERSON.*—*The term ‘foreign*  
24       *person’ means any person who is not a United States*  
25       *person. For purposes of the preceding sentence, the*

1        *term ‘United States person’ has the meaning given to*  
 2        *such term by section 7701(a)(30), except that any in-*  
 3        *dividual who is a citizen of any possession of the*  
 4        *United States (but not otherwise a citizen of the*  
 5        *United States) and who is not a resident of the United*  
 6        *States shall not be treated as a United States person.*

7                *“(5) RECORDS.—The term ‘records’ includes any*  
 8        *books, papers, or other data.*

9                *“(6) SECTION 318 TO APPLY.—Section 318 shall*  
 10        *apply for purposes of paragraphs (1) and (2), except*  
 11        *that—*

12                *“(A) ‘10 percent’ shall be substituted for ‘50*  
 13        *percent’ in section 318(a)(2)(C), and*

14                *“(B) subparagraphs (A), (B), and (C) of*  
 15        *section 318(a)(3) shall not be applied so as to*  
 16        *consider a United States person as owning stock*  
 17        *which is owned by a person who is not a United*  
 18        *States person.”*

19        *(b) U.S. RECORDKEEPING REQUIREMENTS.—Sub-*  
 20        *section (a) of section 6038A is amended by inserting before*  
 21        *the period at the end thereof the following: “and such corpora-*  
 22        *tion shall maintain (in the location, in the manner, and to*  
 23        *the extent prescribed in regulations) such records as may be*  
 24        *appropriate to determine the correct treatment of transactions*  
 25        *with related parties as the Secretary shall by regulations pre-*

1 scribe (or shall cause another person to so maintain such  
2 records)''.

3 (c) *INCREASE IN PENALTY.*—Subsection (d) of section  
4 6038A is amended to read as follows:

5 “(d) *PENALTY FOR FAILURE TO FURNISH INFORMA-*  
6 *TION OR MAINTAIN RECORDS.*—

7 “(1) *IN GENERAL.*—If a reporting corporation—

8 “(A) fails to furnish (within the time pre-  
9 scribed by regulations) any information described  
10 in subsection (b), or

11 “(B) fails to maintain (or cause another to  
12 maintain) records as required by subsection (a),  
13 such corporation shall pay a penalty of \$10,000 for  
14 each taxable year with respect to which such failure  
15 occurs.

16 “(2) *INCREASE IN PENALTY WHERE FAILURE*  
17 *CONTINUES AFTER NOTIFICATION.*—If any failure de-  
18 scribed in paragraph (1) continues for more than 90  
19 days after the day on which the Secretary mails notice  
20 of such failure to the reporting corporation, such corpo-  
21 ration shall pay a penalty (in addition to the amount  
22 required under paragraph (1)) of \$10,000 for each 30-  
23 day period (or fraction thereof) during which such fail-  
24 ure continues after the expiration of such 90-day  
25 period.

1           “(3) *REASONABLE CAUSE.*—*For purposes of this*  
2           *subsection, the time prescribed by regulations to fur-*  
3           *nish information or maintain records (and the begin-*  
4           *ning of the 90-day period after notice by the Secretary)*  
5           *shall be treated as not earlier than the last day on*  
6           *which (as shown to the satisfaction of the Secretary)*  
7           *reasonable cause existed for failure to furnish the in-*  
8           *formation or maintain the records.”*

9           (d) *ENFORCEMENT OF INFORMATION REQUESTS.*—  
10          *Section 6038A is amended by redesignating subsection (e) as*  
11          *subsection (f) and by inserting after subsection (d) the follow-*  
12          *ing new subsection:*

13          “(e) *ENFORCEMENT OF REQUESTS FOR CERTAIN*  
14          *RECORDS.*—

15               “(1) *AGREEMENT TO TREAT CORPORATION AS*  
16               *AGENT.*—*The rules of paragraph (3) shall apply to*  
17               *any transaction between the reporting corporation and*  
18               *any related party who is a foreign person unless such*  
19               *related party agrees (in such manner and at such time*  
20               *as the Secretary shall prescribe) to authorize the re-*  
21               *porting corporation to act as such related party’s agent*  
22               *solely for purposes of applying sections 7602, 7603,*  
23               *and 7604 with respect to any request to examine*  
24               *records or produce testimony related to any such trans-*

1       *action or with respect to any summons for such records*  
2       *or testimony.*

3               “(2) *RULES WHERE INFORMATION NOT FUR-*  
4       *NISHED.—If—*

5               “(A) *for purposes of determining the correct*  
6       *treatment of any transaction between the reporting*  
7       *corporation and a related party who is a foreign*  
8       *person, the Secretary issues a summons to such*  
9       *corporation to produce (either directly or as agent*  
10      *for such related party) any records or testimony,*

11              “(B) *such summons is not quashed in a pro-*  
12      *ceeding begun under paragraph (4) and is not de-*  
13      *termined to be invalid in a proceeding begun*  
14      *under section 7604(b) to enforce such summons,*  
15      *and*

16              “(C) *the reporting corporation does not sub-*  
17      *stantially comply in a timely manner with such*  
18      *summons,*

19      *the Secretary may apply the rules of paragraph (3)*  
20      *with respect to such transaction (whether or not the*  
21      *Secretary begins a proceeding to enforce such sum-*  
22      *mons). If the reporting corporation fails to maintain*  
23      *(or cause another to maintain) records as required by*  
24      *subsection (a), and by reason of that failure, the sum-*  
25      *mons is quashed in a proceeding described in subpara-*

1        *graph (B) or the reporting corporation is not able to*  
2        *provide the records requested in the summons, the Sec-*  
3        *retary may apply the rules of paragraph (3) with re-*  
4        *spect to any transaction to which the records relate.*

5                *“(3) APPLICABLE RULES IN CASES OF NONCOM-*  
6        *PLIANCE.—If the rules of this paragraph apply to any*  
7        *transaction—*

8                *“(A) the amount of the deduction allowed*  
9        *under subtitle A for any amount paid or incurred*  
10        *by the reporting corporation to the related party in*  
11        *connection with such transaction, and*

12                *“(B) the cost to the reporting corporation of*  
13        *any property acquired in such transaction from*  
14        *the related party (or transferred by such corpora-*  
15        *tion in such transaction to the related party),*  
16        *shall be the amount determined by the Secretary in the*  
17        *Secretary’s sole discretion from the Secretary’s own*  
18        *knowledge or from such information as the Secretary*  
19        *may obtain through testimony or otherwise.*

20                *“(4) PROCEEDING TO QUASH.—*

21                *“(A) IN GENERAL.—Notwithstanding any*  
22        *law or rule of law, any reporting corporation to*  
23        *which the Secretary issues a summons referred to*  
24        *in paragraph (2)(A) shall have the right to begin*  
25        *a proceeding to quash such summons not later*

1        *than the 90th day after such summons was*  
2        *issued. In any such proceeding, the Secretary*  
3        *may seek to compel compliance with such sum-*  
4        *mons.*

5                *“(B) JURISDICTION.—The United States*  
6        *district court for the district in which the person*  
7        *(to whom the summons is issued) resides or is*  
8        *found shall have jurisdiction to hear any proceed-*  
9        *ing brought under subparagraph (A). An order de-*  
10       *nying the petition shall be treated as a final order*  
11       *which may be appealed.*

12                *“(C) SUSPENSION OF STATUTE OF LIMITA-*  
13       *TIONS.—If the reporting corporation brings an*  
14       *action under subparagraph (A) to quash the sum-*  
15       *mons referred to in paragraph (2)(A), the running*  
16       *of any period of limitations under section 6501*  
17       *(relating to assessment and collection of tax) or*  
18       *under section 6531 (relating to criminal prosecu-*  
19       *tions) with respect to any transaction to which the*  
20       *summons relates shall be suspended for the period*  
21       *during which such proceeding, and appeals there-*  
22       *in, are pending. In no event shall any such period*  
23       *expire before the 90th day after the day on which*  
24       *there is a final determination in such proceed-*  
25       *ing.”*



1       (e) *EFFECTIVE DATE.*—*The amendments made by this*  
 2 *section shall apply to taxable years beginning after July 10,*  
 3 *1989.*

## 4       ***Subtitle D—Excise Tax Provisions***

### 5       ***SEC. 6501. 9-MONTH SUSPENSION OF AUTOMATIC REDUCTION IN*** 6               ***AVIATION-RELATED TAXES.***

7       (a) *IN GENERAL.*—*Subsection (a) of section 4283 (re-*  
 8 *lating to reduction in aviation-related taxes in certain cases)*  
 9 *is amended by striking “during 1990” and inserting “after*  
 10 *September 30, 1990”.*

11       (b) *CONFORMING AMENDMENTS.*—

12               (1) *Clause (i) of section 4283(b)(1)(A) is amend-*  
 13 *ed by striking “1988 and 1989” and inserting “1989*  
 14 *and 1990”.*

15               (2) *Paragraph (3) of section 4283(b) is*  
 16 *amended—*

17                       (A) *by striking “December 1, 1989” and in-*  
 18 *serting “September 1, 1990”, and*

19                       (B) *by striking “during 1990” and inserting*  
 20 *“after September 30, 1990”.*

21               (3) *Subsection (q) of section 6427 is amended by*  
 22 *striking “during 1990” each place it appears and in-*  
 23 *serting “after September 30, 1990”.*

1 **SEC. 6502. INCREASE IN INTERNATIONAL AIR PASSENGER DE-**  
 2 **PARTURE TAX.**

3 (a) *IN GENERAL.*—Section 4261(c) (relating to tax on  
 4 use of international travel facilities) is amended by striking  
 5 “\$3” and inserting “\$6”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 7 section (a) shall apply with respect to transportation begin-  
 8 ning after December 31, 1989.

9 **SEC. 6503. SHIP PASSENGERS INTERNATIONAL DEPARTURE**  
 10 **TAX.**

11 (a) *IN GENERAL.*—Chapter 36 (relating to certain  
 12 other excise taxes) is amended by inserting after subchapter  
 13 A the following new subchapter:

14 **“Subchapter B—Transportation by Water**

“Sec. 4471. Imposition of tax.

“Sec. 4472. Definitions and special rules.

15 **“SEC. 4471. IMPOSITION OF TAX.**

16 “(a) *IN GENERAL.*—There is hereby imposed a tax of  
 17 \$3 per passenger on a covered voyage.

18 “(b) *BY WHOM PAID.*—The tax imposed by this sec-  
 19 tion shall be paid by the person providing the covered voyage.

20 “(c) *TIME OF IMPOSITION.*—The tax imposed by this  
 21 section shall be imposed only once for each passenger on a  
 22 covered voyage, either at the time of first embarkation or dis-  
 23 embarkation in the United States.

1 **"SEC. 4472. DEFINITIONS.**

2 *"For purposes of this subchapter—*

3 *"(1) COVERED VOYAGE.—*

4 *"(A) IN GENERAL.—The term 'covered*  
5 *voyage' means a voyage of—*

6 *"(i) a commercial passenger vessel*  
7 *which extends over 1 or more nights, or*

8 *"(ii) a commercial vessel transporting*  
9 *passengers engaged in gambling aboard the*  
10 *vessel beyond the territorial waters of the*  
11 *United States,*

12 *during which passengers embark or disembark the*  
13 *vessel in the United States. Such term shall not*  
14 *include any voyage on any vessel owned or oper-*  
15 *ated by the United States, a State, or any agency*  
16 *or subdivision thereof.*

17 *"(B) EXCEPTION FOR CERTAIN VOYAGES*  
18 *ON PASSENGER VESSELS.—The term 'covered*  
19 *voyage' shall not include a voyage of a passenger*  
20 *vessel of less than 12 hours between 2 ports in the*  
21 *United States.*

22 *"(2) PASSENGER VESSEL.—The term 'passenger*  
23 *vessel' means any vessel having berth or stateroom ac-*  
24 *commodations for more than 16 passengers."*

1       (b) *CLERICAL AMENDMENTS.*—*The table of subchap-*  
 2 *ters for chapter 36 is amended by inserting after the item*  
 3 *relating to subchapter A the following new item:*

*"SUBCHAPTER B. Transportation by water."*

4       (c) *EFFECTIVE DATE.*—

5           (1) *IN GENERAL.*—*The amendments made by*  
 6 *this section shall apply to voyages beginning after*  
 7 *December 31, 1989.*

8           (2) *NO DEPOSITS REQUIRED BEFORE APRIL 1,*  
 9 *1990.*—*No deposit of any tax imposed by subchapter B*  
 10 *of chapter 36 of the Internal Revenue Code of 1986,*  
 11 *as added by this section, shall be required to be made*  
 12 *before April 1, 1990.*

13 **SEC. 6504. OIL SPILL LIABILITY TRUST FUND TAX TO TAKE**  
 14 **EFFECT ON JANUARY 1, 1990.**

15       (a) *TAX TO TAKE EFFECT ON JANUARY 1, 1990.*—

16           (1) *IN GENERAL.*—*Subsection (f) of section 4611*  
 17 *(relating to application of Oil Spill Liability Trust*  
 18 *Fund financing rate) is amended by striking para-*  
 19 *graphs (1) and (2) and by inserting the following:*

20           “(1) *IN GENERAL.*—*Except as provided in para-*  
 21 *graph (2), the Oil Spill Liability Trust Fund financ-*  
 22 *ing rate under subsection (c) shall apply after Decem-*  
 23 *ber 31, 1989, and before January 1, 1992.”*

24           (2) *CONFORMING AMENDMENT.*—*Paragraph (3)*  
 25 *of section 4611(f) is redesignated as paragraph (2) and*

1        *is amended by striking "the commencement date" in*  
 2        *subparagraph (A) and inserting "January 1, 1990,".*

3        *(b) 3-CENT RATE OF TAX.—Subparagraph (B) of sec-*  
 4        *tion 4611(c)(2) is amended by striking "1.3 cents" and in-*  
 5        *serting "3 cents".*

6        *(c) OIL SPILL LIABILITY TRUST FUND TO BE OP-*  
 7        *ERATING FUND.—*

8                *(1) IN GENERAL.—For purposes of sections*  
 9        *8032(d) and 8033(c) of the Omnibus Budget Reconcil-*  
 10        *iation Act of 1986, the commencement date is January*  
 11        *1, 1990.*

12                *(2) CONFORMING AMENDMENTS.—*

13                *(A) Section 9509 (relating to Oil Spill Li-*  
 14        *ability Trust Fund) is amended by adding at the*  
 15        *end thereof the following new subsection:*

16        *"(f) REFERENCES TO COMPREHENSIVE OIL POLLU-*  
 17        *TION LIABILITY AND COMPENSATION ACT.—For purposes*  
 18        *of this section, references to the Comprehensive Oil Pollution*  
 19        *Liability and Compensation Act shall be treated as refer-*  
 20        *ences to any law enacted before December 31, 1990, which is*  
 21        *substantially identical to subtitle E of title VI, or subtitle D*  
 22        *of title VIII, of H.R. 5300 of the 99th Congress as passed by*  
 23        *the House of Representatives or the Oil Pollution Liability*  
 24        *and Compensation Act of 1989, S. 686 of the 101st Con-*  
 25        *gress as passed by the Senate."*

1           (B) Paragraph (3) of section 9509(b) is  
 2           amended by striking “(on the 1st day the Oil  
 3           Spill Liability Trust Fund financing rate under  
 4           section 4611(c) applies)” and inserting “(on Jan-  
 5           uary 1, 1990)”.

6           (C) Paragraph (1)(A) of section 9509(c) is  
 7           amended by striking the last sentence.

8   **SEC. 6505. EXCISE TAX ON SALE OF CHEMICALS WHICH DE-**  
 9           **plete the ozone layer and of products**  
 10           **containing such chemicals.**

11           (a) *IN GENERAL.*—Chapter 38 (relating to environ-  
 12           mental taxes) is amended by adding at the end thereof the  
 13           following new subchapter:

14   **“Subchapter D—Ozone-Depleting Chemicals, Etc.**

          “Sec. 4681. Imposition of tax.

          “Sec. 4682. Definitions and special rules.

15   **“SEC. 4681. IMPOSITION OF TAX.**

16           “(a) *GENERAL RULE.*—There is hereby imposed a tax  
 17           on—

18                   “(1) any ozone-depleting chemical sold or used by  
 19                   the manufacturer, producer, or importer thereof, and

20                   “(2) any imported taxable product sold or used by  
 21                   the importer thereof.

22           “(b) *AMOUNT OF TAX.*—

23                   “(1) *OZONE-DEPLETING CHEMICALS.*—

1           “(A) *IN GENERAL.*—*The amount of the tax*  
 2           *imposed by subsection (a) on each pound of ozone-*  
 3           *depleting chemical shall be an amount equal to—*

4                     “(i) *the base tax amount, multiplied by*

5                     “(ii) *the ozone-depletion factor for such*  
 6                     *chemical.*

7           “(B) *BASE TAX AMOUNT.*—*The base tax*  
 8           *amount for purposes of subparagraph (A) with re-*  
 9           *spect to any sale or use during a calendar year is*  
 10           *the amount determined under the following table*  
 11           *for such calendar year:*

<i>“Calendar year:</i>	<i>Base tax amount:</i>
1990.....	\$1.07
1991.....	1.12
1992.....	1.67
1993.....	3.15
1994 or thereafter .....	3.15.

12           “(2) *IMPORTED TAXABLE PRODUCT.*—

13           “(A) *IN GENERAL.*—*The amount of the tax*  
 14           *imposed by subsection (a) on any imported tax-*  
 15           *able product shall be the amount of tax which*  
 16           *would have been imposed by subsection (a) on the*  
 17           *ozone-depleting chemicals used as materials in the*  
 18           *manufacture or production of such product if such*  
 19           *ozone-depleting chemicals had been sold in the*  
 20           *United States on the date of the sale of such im-*  
 21           *ported taxable product.*

1                   “(B) CERTAIN RULES TO APPLY.—Rules  
2                   *similar to the rules of paragraphs (2) and (3) of*  
3                   *section 4671(b) shall apply.*

4   **“SEC. 4682. DEFINITIONS AND SPECIAL RULES.**

5                   “(a) OZONE-DEPLETING CHEMICAL.—For purposes  
6   *of this subchapter—*

7                   “(1) IN GENERAL.—The term ‘ozone-depleting  
8                   *chemical’ means any substance—*

9                   “(A) *which, at the time of the sale or use by*  
10                   *the manufacturer, producer, or importer, is listed*  
11                   *as an ozone-depleting chemical in the table con-*  
12                   *tained in paragraph (2), and*

13                   “(B) *which is manufactured or produced in*  
14                   *the United States or entered into the United*  
15                   *States for consumption, use, or warehousing.*

16                   “(2) OZONE-DEPLETING CHEMICALS.—

<b>“Common name:</b>	<b>Chemical nomenclature:</b>
CFC-11.....	trichlorofluoromethane
CFC-12.....	dichlorodifluoromethane
CFC-113.....	trichlorotrifluoroethane
CFC-114.....	1,2-dichloro-1,1,2,2-tetra- fluoroethane
CFC-115.....	chloropentafluoroethane
Halon-1211.....	bromochlorodifluoromethane
Halon-1301.....	bromotrifluoromethane
Halon-2402.....	dibromotetrafluoroethane.

17                   “(b) OZONE-DEPLETION FACTOR.—For purposes of  
18   *this subchapter, the term ‘ozone-depletion factor’ means, with*  
19   *respect to an ozone-depleting chemical, the factor assigned to*  
20   *such chemical under the following table:*



<b>"Ozone-depleting chemical:</b>	<b>Ozone-depletion factor:</b>
<i>CFC-11</i> .....	1.0
<i>CFC-12</i> .....	1.0
<i>CFC-113</i> .....	0.8
<i>CFC-114</i> .....	1.0
<i>CFC-115</i> .....	0.6
<i>Halon-1211</i> .....	3.0
<i>Halon-1301</i> .....	10.0
<i>Halon-2402</i> .....	6.0.

1       “(c) *IMPORTED TAXABLE PRODUCT.*—For purposes of  
2 *this subchapter*—

3               “(1) *IN GENERAL.*—The term ‘imported taxable  
4 *product*’ means any product (other than an ozone-de-  
5 *pleting chemical*) entered into the United States for  
6 *consumption, use, or warehousing if any ozone-deplet-*  
7 *ing chemical was used as material in the manufacture*  
8 *or production of such product.*

9               “(2) *DE MINIMIS EXCEPTION.*—The term ‘im-  
10 *ported taxable product*’ shall not include any product  
11 *specified in regulations prescribed by the Secretary as*  
12 *using a de minimis amount of ozone-depleting chemi-*  
13 *cals as materials in the manufacture or production*  
14 *thereof. The preceding sentence shall not apply to any*  
15 *product in which any ozone-depleting chemical is used*  
16 *for purposes of refrigeration or air conditioning, creat-*  
17 *ing an aerosol or foam, or manufacturing electronic*  
18 *components.*

19       “(d) *EXCEPTIONS.*—

1           “(1) *RECYCLING*.—No tax shall be imposed by  
2           *section 4681 on any ozone-depleting chemical which is*  
3           *diverted or recovered in the United States as part of a*  
4           *recycling process (and not as part of the original man-*  
5           *ufacturing or production process).*

6           “(2) *USE IN FURTHER MANUFACTURE*.—

7           “(A) *IN GENERAL*.—No tax shall be im-  
8           *posed by section 4681 on any ozone-depleting*  
9           *chemical which is used (and entirely consumed)*  
10          *by the manufacturer, producer, or importer thereof*  
11          *in the manufacture or production of any other*  
12          *chemical.*

13          “(B) *CREDIT OR REFUND*.—Under regula-  
14          *tions prescribed by the Secretary, if—*

15               “(i) *a tax under this subchapter was*  
16               *paid with respect to any ozone-depleting*  
17               *chemical, and*

18               “(ii) *such chemical was used (and en-*  
19               *tirely consumed) by any person in the manu-*  
20               *facture or production of any other chemical,*  
21               *then an amount equal to the tax so paid shall be*  
22               *allowed as a credit or refund (without interest) to*  
23               *such person in the same manner as if it were an*  
24               *overpayment of tax imposed by section 4681.*

25          “(3) *EXPORTS*.—

1           “(A) *IN GENERAL.*—*Except as provided in*  
2           *subparagraph (B), rules similar to the rules of*  
3           *section 4662(e) (other than section*  
4           *4662(e)(2)(A)(ii)(II)) shall apply for purposes of*  
5           *this subchapter.*

6           “(B) *LIMIT ON BENEFIT.*—

7           “(i) *IN GENERAL.*—*The aggregate tax*  
8           *benefit allowable under subparagraph (A)*  
9           *with respect to ozone-depleting chemicals*  
10           *manufactured or produced by any person*  
11           *during a calendar year shall not exceed the*  
12           *sum of—*

13           “(I) *the amount equal to the 1986*  
14           *export percentage of the aggregate tax*  
15           *imposed by this subchapter with respect*  
16           *to ozone-depleting chemicals manufac-*  
17           *tured or produced by such person*  
18           *during such calendar year (other than*  
19           *chemicals with respect to which sub-*  
20           *clause (II) applies), and*

21           “(II) *the aggregate tax imposed by*  
22           *this subchapter with respect to any ad-*  
23           *ditional production allowance granted to*  
24           *such person with respect to ozone-deplet-*  
25           *ing chemicals manufactured or produced*

1           *by such person during such calendar*  
2           *year by the Environmental Protection*  
3           *Agency under 40 CFR Part 82 (as in*  
4           *effect on September 14, 1989).*

5           “(ii) 1986 EXPORT PERCENTAGE.—A  
6           *person’s 1986 export percentage is the per-*  
7           *centage equal to the ozone-depletion factor*  
8           *adjusted pounds of ozone-depleting chemicals*  
9           *manufactured or produced by such person*  
10           *during 1986 which were exported during*  
11           *1986, divided by the ozone-depletion factor*  
12           *adjusted pounds of all ozone-depleting chemi-*  
13           *cals manufactured or produced by such*  
14           *person during 1986. The percentage deter-*  
15           *mined under the preceding sentence shall be*  
16           *based on data published by the Environmen-*  
17           *tal Protection Agency.*

18           “(e) OTHER DEFINITIONS.—For purposes of this sub-  
19           *chapter—*

20           “(1) IMPORTER.—The term ‘importer’ means the  
21           *person entering the article for consumption, use, or*  
22           *warehousing.*

23           “(2) UNITED STATES.—The term ‘United States’  
24           *has the meaning given such term by section*  
25           *4612(a)(4).*

1       “(f) *SPECIAL RULES.*—

2               “(1) *FRACTIONAL PARTS OF A POUND.*—*In the*  
3 *case of a fraction of a pound, the tax imposed by this*  
4 *subchapter shall be the same fraction of the amount of*  
5 *such tax imposed on a whole pound.*

6               “(2) *DISPOSITION OF REVENUES FROM PUERTO*  
7 *RICO AND THE VIRGIN ISLANDS.*—*The provisions of*  
8 *subsections (a)(3) and (b)(3) of section 7652 shall not*  
9 *apply to any tax imposed by this subchapter.*

10       “(g) *PHASE-IN OF TAX ON CERTAIN SUBSTANCES.*—

11               “(1) *TREATMENT FOR 1990.*—

12               “(A) *HALONS.*—*The term ‘ozone-depleting*  
13 *chemical’ shall not include halon-1211, halon-*  
14 *1301, or halon-2402 with respect to any sale or*  
15 *use during 1990.*

16               “(B) *CHEMICALS USED IN RIGID FOAM IN-*  
17 *SULATION.*—*No tax shall be imposed by section*  
18 *4681—*

19               “(i) *on the use during 1990 of any sub-*  
20 *stance in the manufacture of rigid foam in-*  
21 *sulation,*

22               “(ii) *on the sale during 1990 by the*  
23 *manufacturer, producer, or importer of any*  
24 *substance—*

1                   “(I) for use by the purchaser in  
2                   the manufacture of rigid foam insula-  
3                   tion, or

4                   “(II) for resale by the purchaser to  
5                   a second purchaser for such use by the  
6                   second purchaser, or

7                   “(iii) on the sale or use during 1990 by  
8                   the importer of any rigid foam insulation.

9                   Clause (ii) shall apply only if the manufacturer, pro-  
10                  ducer, and importer, and the 1st and 2d purchasers (if  
11                  any) meet such registration requirements as may be  
12                  prescribed by the Secretary.

13               “(2) TREATMENT FOR 1991, 1992, AND 1993.—

14               “(A) HALONS.—The tax imposed by section  
15               4681 during 1991, 1992, or 1993 by reason of  
16               the treatment of halon-1211, halon-1301, and  
17               halon-2402 as ozone-depleting chemicals shall be  
18               the applicable percentage (determined under the  
19               following table) of the amount of such tax which  
20               would (but for this subparagraph) be imposed.

“In the case of:	The applicable percentage is:		
	For sales or use during 1991	For sales or use during 1992	For sales or use during 1993
Halon-1211.....	7	5	3
Halon-1301.....	2	1	1

<i>"In the case of:</i>	<i>The applicable percentage is:</i>		
	<i>For sales or use during 1991</i>	<i>For sales or use during 1992</i>	<i>For sales or use during 1993</i>
<i>Halon-2402.....</i>	<i>4</i>	<i>2</i>	<i>1.</i>

1                   “(B) *CHEMICALS USED IN RIGID FOAM IN-*  
2                   *SULATION.—In the case of a sale or use during*  
3                   *1991, 1992, or 1993 on which no tax would have*  
4                   *been imposed by reason of paragraph (1)(B) had*  
5                   *such sale or use occurred during 1990, the tax*  
6                   *imposed by section 4681 shall be the applicable*  
7                   *percentage (determined in accordance with the fol-*  
8                   *lowing table) of the amount of such tax which*  
9                   *would (but for this subparagraph) be imposed.*

<i>"In the case of sales or use during:</i>	<i>The applicable percentage is:</i>
<i>1991.....</i>	<i>23</i>
<i>1992.....</i>	<i>16</i>
<i>1993.....</i>	<i>8.</i>

10                   “(3) *OVERPAYMENTS WITH RESPECT TO*  
11                   *CHEMICALS USED IN RIGID FOAM INSULATION.—If*  
12                   *any substance on which tax was paid under this sub-*  
13                   *chapter is used during 1990, 1991, 1992, or 1993 by*  
14                   *any person in the manufacture of rigid foam insula-*  
15                   *tion, credit or refund (without interest) shall be allowed*  
16                   *to such person an amount equal to the excess of—*

17                   “(A) *the tax paid under this subchapter on*  
18                   *such substance, over*

1           “(B) the tax (if any) which would be im-  
2           posed by section 4681 if such substance were used  
3           for such use by the manufacturer, producer, or  
4           importer thereof on the date of its use by such  
5           person.

6           “(h) IMPOSITION OF FLOOR STOCKS TAXES.—

7           “(1) JANUARY 1, 1990, TAX.—On any ozone-de-  
8           pleting chemical which on January 1, 1990, is held by  
9           any person (other than the manufacturer, producer, or  
10          importer thereof) for sale or for use in further manu-  
11          facture, there is hereby imposed a floor stocks tax in  
12          an amount equal to the tax which would be imposed by  
13          section 4681 on such chemical if the sale of such chem-  
14          ical by the manufacturer, producer, or importer thereof  
15          had occurred during 1990.

16          “(2) OTHER TAX-INCREASE DATES.—

17          “(A) IN GENERAL.—If, on any tax-increase  
18          date, any ozone-depleting chemical is held by any  
19          person (other than the manufacturer, producer, or  
20          importer thereof) for sale or for use in further  
21          manufacture, there is hereby imposed a floor  
22          stocks tax.

23          “(B) AMOUNT OF TAX.—The amount of the  
24          tax imposed by subparagraph (A) shall be the  
25          excess (if any) of—



1           “(i) the tax which would be imposed  
2           under section 4681 on such substance if the  
3           sale of such chemical by the manufacturer,  
4           producer, or importer thereof had occurred on  
5           the tax-increase date, over

6           “(ii) the prior tax (if any) imposed by  
7           this subchapter on such substance.

8           “(C) *TAX-INCREASE DATE.*—For purposes  
9           of this paragraph, the term ‘tax-increase date’  
10          means January 1 of 1991, 1992, 1993, and  
11          1994.

12          “(3) *DUE DATE.*—The taxes imposed by this sub-  
13          section on January 1 of any calendar year shall be  
14          paid on or before April 1 of such year.

15          “(4) *APPLICATION OF OTHER LAWS.*—All other  
16          provisions of law, including penalties, applicable with  
17          respect to the taxes imposed by section 4681 shall  
18          apply to the floor stocks taxes imposed by this sub-  
19          section.”

20          (b) *CLERICAL AMENDMENT.*—The table of subchapters  
21          for chapter 38 is amended by adding at the end thereof the  
22          following new item:

                  “SUBCHAPTER D. Ozone-depleting chemicals, etc.”

23          (c) *EFFECTIVE DATE.*—

24               (1) *IN GENERAL.*—The amendments made by  
25               this section shall take effect on January 1, 1990.

1           (2) *NO DEPOSITS REQUIRED BEFORE APRIL 1,*  
 2           *1990.—No deposit of any tax imposed by subchapter D*  
 3           *of chapter 38 of the Internal Revenue Code of 1986,*  
 4           *as added by this section, shall be required to be made*  
 5           *before April 1, 1990.*

6 **SEC. 6506. ACCELERATION OF DEPOSIT REQUIREMENTS FOR**  
 7                               **GASOLINE EXCISE TAX.**

8           (a) *IN GENERAL.—Section 6302 (relating to mode or*  
 9           *time of collection), as amended by section 6504, is further*  
 10          *amended by redesignating subsection (f) as subsection (g)*  
 11          *and by inserting after subsection (e) the following new sub-*  
 12          *section:*

13          “(f) *FREQUENCY AND TIME FOR DEPOSIT OF TAXES*  
 14          *ON GASOLINE.—*

15               “(1) *GENERAL RULE.—Any person whose liabil-*  
 16               *ity for tax under section 4081 exceeds \$100 in any*  
 17               *month of a calendar quarter shall make deposits of*  
 18               *such tax with respect to tax periods in any month in*  
 19               *the succeeding quarter as determined under paragraph*  
 20               (2).

21               “(2) *TIME OF DEPOSIT.—*

22                       “(A) *IN GENERAL.—Any deposit of tax re-*  
 23                       *quired with respect to any tax period under para-*  
 24                       *graph (1) shall be payable on or before—*

1                   “(i) the 9th day after the close of the  
2                   tax period, or

3                   “(ii) if such deposit is made by wire  
4                   transfer to any government depository au-  
5                   thorized under section 6302, the 14th day  
6                   after the close of the tax period.

7                   “(B) TAX PERIODS.—Each month shall in-  
8                   clude 4 tax periods ending on the 7th, 14th, 21st,  
9                   and last days of such month.

10                  “(3) SPECIAL RULE WHERE 9TH OR 14TH DAY  
11                  FALLS ON SATURDAY, SUNDAY, OR HOLIDAY.—If,  
12                  but for this paragraph, the due date under paragraph  
13                  (2) would fall on a Saturday, Sunday, or holiday in  
14                  the District of Columbia, such due date shall be  
15                  deemed to be the immediately preceding day which is  
16                  not a Saturday, Sunday, or such a holiday.”

17                  (b) EFFECTIVE DATE; SPECIAL RULE.—

18                   (1) IN GENERAL.—The amendment made by sub-  
19                   section (a) shall apply to payments of taxes for tax pe-  
20                   riods beginning after December 31, 1989.

21                   (2) SPECIAL RULE.—Notwithstanding section  
22                   6302(f) of the Internal Revenue Code of 1986, as  
23                   added by subsection (a), in applying such section in  
24                   September 1990, the due date for the third tax period  
25                   of such month with respect to 9-day payers and the due

4 ***PART I—LIKE KIND EXCHANGES BETWEEN RELATED***  
5 ***PERSONS***

8           (a) *SPECIAL RULES FOR EXCHANGES BETWEEN RE-*  
9 *LATED PERSONS, ETC.—Section 1031 (relating to ex-*  
10 *change of property held for productive use or investment) is*  
11 *amended by adding at the end thereof the following new sub-*  
12 *sections:*

15                   “(1) *IN GENERAL.*—If—

18                   “(B) there is nonrecognition of gain or loss  
19                   to the taxpayer under this section with respect to  
20                   the exchange of such property (determined without  
21                   regard to this subsection), and

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1                   “(i) the related person disposes of such  
2                   property, or

3                   “(ii) the taxpayer disposes of the prop-  
4                   erty received in the exchange from the related  
5                   person which was of like kind to the property  
6                   transferred by the taxpayer,

7                   there shall be no nonrecognition of gain or loss under  
8                   this section to the taxpayer with respect to such ex-  
9                   change; except that any gain or loss recognized by the  
10                  taxpayer by reason of this subsection shall be taken  
11                  into account as of the date on which the disposition re-  
12                  ferred to in subparagraph (C) occurs.

13                  “(2) CERTAIN DISPOSITIONS NOT TAKEN INTO  
14                  ACCOUNT.—For purposes of paragraph (1)(C), there  
15                  shall not be taken into account any disposition—

16                  “(A) by reason of the death of the taxpayer,

17                  “(B) in a compulsory or involuntary conven-  
18                  tion (within the meaning of section 1033) if the  
19                  exchange occurred before the threat or imminence  
20                  of such conversion, or

21                  “(C) with respect to which it is established to  
22                  the satisfaction of the Secretary that neither the  
23                  exchange nor such disposition had as one of its  
24                  principal purposes the avoidance of Federal  
25                  income tax.

1           “(3) *RELATED PERSON*.—For purposes of this  
 2           subsection, the term ‘related person’ means any person  
 3           bearing a relationship to the taxpayer described in sec-  
 4           tion 267(b).

5           “(4) *TREATMENT OF CERTAIN TRANSACTIONS*.—  
 6           This section shall not apply to any exchange which is  
 7           part of a transaction (or series of transactions) struc-  
 8           tured to avoid the purposes of this subsection.

9           “(g) *SPECIAL RULE WHERE SUBSTANTIAL DIMINU-*  
 10          *TION OF RISK*.—

11           “(1) *IN GENERAL*.—If paragraph (2) applies to  
 12           any property for any period, the running of the period  
 13           set forth in subsection (f)(1)(C) with respect to such  
 14           property shall be suspended during such period.

15           “(2) *PROPERTY TO WHICH SUBSECTION AP-*  
 16           *PLIES*.—This paragraph shall apply to any property  
 17           for any period during which the holder’s risk of loss  
 18           with respect to the property is substantially diminished  
 19           by—

20                   “(A) the holding of a put with respect to  
 21                   such property,

22                   “(B) the holding by another person of a right  
 23                   to acquire such property, or

24                   “(C) a short sale or any other transaction.

1       “(h) *REGULATIONS.*—*The Secretary shall prescribe*  
 2 *such regulations as may be appropriate to carry out the pur-*  
 3 *poses of this section, including such regulations as may be*  
 4 *necessary to prevent the avoidance of the purposes of this*  
 5 *section.*”

6       (b) *EFFECTIVE DATE.*—

7           (1) *IN GENERAL.*—*Except as provided in para-*  
 8 *graph (2), the amendments made by this section shall*  
 9 *apply to transfers after July 10, 1989, in taxable*  
 10 *years ending after such date.*

11          (2) *BINDING CONTRACT.*—*The amendments*  
 12 *made by this section shall not apply to any transfer*  
 13 *pursuant to a written binding contract in effect on*  
 14 *July 10, 1989, and at all times thereafter before the*  
 15 *transfer.*

## 16           **PART II—ACCOUNTING PROVISIONS**

### 17   **SEC. 6621. CHANGES IN TREATMENT OF TRANSFERS OF FRAN-** 18           **CHISES, TRADEMARKS, AND TRADE NAMES.**

19          (a) *CONTINGENT PAYMENTS.*—*Paragraph (1) of*  
 20 *section 1253(d) (relating to treatment of payments by trans-*  
 21 *feree) is amended to read as follows:*

22           “(1) *CONTINGENT SERIAL PAYMENTS.*—

23                   “(A) *IN GENERAL.*—*Any amount described*  
 24 *in subparagraph (B) which is paid or incurred*  
 25 *during the taxable year on account of a transfer,*

1        *sale, or other disposition of a franchise, trade-*  
 2        *mark, or trade name shall be allowed as a deduc-*  
 3        *tion under section 162(a) (relating to trade or*  
 4        *business expenses).*

5                *“(B) AMOUNTS TO WHICH PARAGRAPH AP-*  
 6        *PLIES.—An amount is described in this subpara-*  
 7        *graph if it—*

8                *“(i) is contingent on the productivity,*  
 9        *use, or disposition of the franchise, trade-*  
 10        *mark, or trade name, and*

11                *“(ii) is paid as part of a series of pay-*  
 12        *ments—*

13                *“(I) which are payable not less*  
 14        *frequently than annually throughout the*  
 15        *entire term of the transfer agreement,*  
 16        *and*

17                *“(II) which are substantially*  
 18        *equal in amount (or payable under a*  
 19        *fixed formula).”*

20        *(b) \$100,000 LIMITATION ON CERTAIN PAYMENTS.—*

21                *(1) IN GENERAL.—Paragraph (2) of section*  
 22        *1253(d) is amended by adding at the end thereof the*  
 23        *following new subparagraph:*

24                *“(B) \$100,000 LIMITATION ON DEDUCT-*  
 25        *IBILITY OF PRINCIPAL SUM.—Subparagraph (A)*



1        *shall not apply if the principal sum referred to in*  
 2        *such subparagraph exceeds \$100,000. For pur-*  
 3        *poses of the preceding sentence, all payments*  
 4        *which are part of the same transaction (or a series*  
 5        *of related transactions) shall be taken into account*  
 6        *as payments with respect to each such transac-*  
 7        *tion."*

8        (2) *CONFORMING AMENDMENTS.—Paragraph (2)*  
 9        *of section 1253(d) is amended—*

10            (A) *by striking all that precedes "If" and in-*  
 11            *serting:*

12            *"(2) CERTAIN PAYMENTS IN DISCHARGE OF*  
 13            *PRINCIPAL SUMS.—*

14            *"(A) IN GENERAL.—", and*

15            (B) *by redesignating subparagraphs (A),*  
 16            (B), *and (C) as clauses (i), (ii), and (iii), respec-*  
 17            *tively.*

18        (c) *OTHER PAYMENTS, ETC.—Section 1253(d) is*  
 19        *amended by adding at the end thereof the following new para-*  
 20        *graphs:*

21            *"(3) OTHER PAYMENTS.—*

22            *"(A) IN GENERAL.—Any amount paid or*  
 23            *incurred on account of a transfer, sale, or other*  
 24            *disposition of a franchise, trademark, or trade*  
 25            *name to which paragraph (1) or (2) does not*

1           *apply shall be treated as an amount chargeable to*  
 2           *capital account.*

3           “(B) *ELECTION TO RECOVER AMOUNTS*  
 4           *OVER 20 YEARS.—*

5           “(i) *IN GENERAL.—If the taxpayer*  
 6           *elects the application of this subparagraph,*  
 7           *an amount chargeable to capital account—*

8                   “(I) *to which paragraph (1) would*  
 9                   *apply but for subparagraph (B)(ii)*  
 10                   *thereof, or*

11                   “(II) *to which paragraph (2)*  
 12                   *would apply but for subparagraph (B)*  
 13                   *thereof,*

14           *shall be allowed as a deduction ratably over*  
 15           *the 20-year period beginning with the tax-*  
 16           *able year in which the transfer occurs.*

17           “(ii) *CONSISTENT TREATMENT.—An*  
 18           *election under clause (i) shall apply to all*  
 19           *amounts which are part of the same transac-*  
 20           *tion (or a series of related transactions).*

21           “(4) *RENEWALS, ETC.—For purposes of deter-*  
 22           *mining the term of a transfer agreement or any period*  
 23           *of amortization under this subsection, there shall be*  
 24           *taken into account all renewal options (and any other*

1     *period for which the parties reasonably expect the*  
 2     *agreement to be renewed)."*

3     ***(b) TECHNICAL AMENDMENTS.—***

4         ***(1) DEPRECIATION ALLOWABLE.—****Subsection*  
 5     *(r) of section 167 is hereby repealed.*

6         ***(2) DEDUCTION SUBJECT TO RECAPTURE.—***

7             ***(A) Subparagraph (C) of section 1245(a)(2)***  
 8     *is amended by striking "or 193" and inserting*  
 9     *"193, or 1253(d) (2) or (3)".*

10            ***(B) The material preceding subparagraph***  
 11     ***(A) of section 1245(a)(3) is amended by striking***  
 12     *"section 185" and inserting "section 185 or*  
 13     *1253(d) (2) or (3)".*

14     ***(c) EFFECTIVE DATE.—***

15         ***(1) IN GENERAL.—****The amendments made by*  
 16     *this section shall apply to transfers after October 2,*  
 17     *1989.*

18         ***(2) BINDING CONTRACT.—****The amendments*  
 19     *made by this section shall not apply to any transfer*  
 20     *pursuant to a written binding contract in effect on Oc-*  
 21     *tober 2, 1989, and at all times thereafter before the*  
 22     *transfer.*

1 **SEC. 6622. RESERVES OF MUTUAL SAVINGS BANKS AND OTHER**  
 2 **THRIFT INSTITUTIONS.**

3 (a) *IN GENERAL.*—Section 593 (relating to reserves for  
 4 losses on loans) is amended by adding at the end thereof the  
 5 following new subsection:

6 “(f) *ORGANIZATIONS FAILING 60-PERCENT ASSET*  
 7 *TEST.*—

8 “(1) *GENERAL RULE.*—In the case of any tax-  
 9 payer described in subsection (a)(1) which ceases to be  
 10 so described or which fails to meet the requirements of  
 11 subsection (a)(2)—

12 “(A) except as provided in this subsection,  
 13 this section shall not apply for the disqualification  
 14 year or any succeeding taxable year, and

15 “(B) if the taxpayer maintained any reserve  
 16 for bad debts for its last taxable year before the  
 17 disqualification year, the rules of paragraph  
 18 (3)(A) of section 585(c) (without regard to para-  
 19 graph (4) thereof) shall apply for the disqualifica-  
 20 tion year with respect to the portion of such re-  
 21 serve allocable to additions to such reserve under  
 22 the experience method of subsection (b)(3).

23 “(2) *SUBSEQUENT LOSSES.*—If paragraph (1)  
 24 applies, the taxpayer shall continue to maintain its re-  
 25 maining reserves for loans held by the taxpayer as of  
 26 the 1st day of the disqualification year and—

1           (A) the rules of subsection (e) shall continue  
2           to apply to such reserves, and

3           (B) the taxpayer shall charge against such  
4           reserves for any taxable year losses resulting from  
5           loans held by the taxpayer on such 1st day to the  
6           extent that the cumulative losses from such loans  
7           as of the close of such taxable year (reduced by  
8           recoveries) does not exceed the cumulative amount  
9           included in gross income by reason of paragraph  
10          (1)(B) as of the close of such taxable year.

11          “(3) *DISQUALIFICATION YEAR.*—The term ‘dis-  
12          qualification year’ means the 1st taxable year ending  
13          after the date of the enactment of this subsection for  
14          which a taxpayer described in subsection (a)(1) ceases  
15          to be so described or fails to meet the requirements of  
16          subsection (a)(2).

17          “(4) *ELECTION IRREVOCABLE.*—An election  
18          under paragraph (1), once made, is irrevocable.”

19          (b) *EFFECTIVE DATE.*—The amendments made by this  
20          section shall apply to taxable years ending after the date of  
21          the enactment of this Act.

1       **PART III—EMPLOYMENT TAX PROVISIONS**

2       **SEC. 6631. TREATMENT OF AGRICULTURAL WORKERS UNDER**  
 3       **WAGE WITHHOLDING.**

4       (a) *IN GENERAL.*—Paragraph (2) of section 3401(a)  
 5       (defining wages) is amended to read as follows:

6               “(2) for agricultural labor (as defined in section  
 7       3121(g)) unless the remuneration paid for such labor  
 8       is wages (as defined in section 3121(a)); or”.

9       (b) *CREW LEADER RULES TO APPLY.*—Section 3401  
 10       is amended by adding at the end thereof the following new  
 11       subsection:

12               “(h) *CREW LEADER RULES TO APPLY.*—Rules simi-  
 13       lar to the rules of section 3121(o) shall apply for purposes of  
 14       this chapter.”

15       (c) *EFFECTIVE DATE.*—The amendments made by this  
 16       section shall apply to remuneration paid after December 31,  
 17       1989.

18       **SEC. 6632. ACCELERATION OF DEPOSIT REQUIREMENTS.**

19       (a) *IN GENERAL.*—Section 6302 (relating to mode or  
 20       time for collection) is amended by redesignating subsection  
 21       (e) as subsection (f) and by inserting after subsection (d) the  
 22       following new subsection:

23               “(e) *DEPOSITS OF SOCIAL SECURITY TAXES AND*  
 24       *WITHHELD INCOME TAXES.*—

25               “(1) *IN GENERAL.*—If, under regulations pre-  
 26       scribed by the Secretary, a person is required to make

1        *deposits of taxes imposed by chapters 21 and 24 on the*  
 2        *basis of eighth-month periods, such person shall, for the*  
 3        *year specified in paragraph (2), make deposits of such*  
 4        *taxes on the applicable banking day after any day on*  
 5        *which such person has an amount equal to or exceed-*  
 6        *ing the threshold amount of such taxes for deposit.*  
 7        *Rules similar to the rules of section 5061(e)(3) shall*  
 8        *apply to the threshold amount in the preceding sen-*  
 9        *tence.*

10            *“(2) SPECIFIED YEARS.—For purposes of para-*  
 11            *graph (1)—*

<i>“In the case of:</i>	<i>“The applicable banking day is:</i>
1990.....	1st
1991.....	3rd
1992.....	3rd
1993.....	1st
1994.....	2d.

<i>“In the case of:</i>	<i>“The threshold amount is:</i>
1990.....	\$1,950,000
1991.....	\$1,500,000
1992.....	\$1,600,000
1993.....	\$1,700,000
1994.....	\$1,775,000.”

12        *(b) EFFECTIVE DATE.—*

13            *(1) GENERAL RULE.—Except as provided in*  
 14        *paragraph (2), the amendment made by subsection (a)*  
 15        *shall apply to amounts required to be deposited after*  
 16        *July 31, 1990.*

17            *(2) RULE FOR 1995 AND THEREAFTER.—For cal-*  
 18        *endar year 1995 and thereafter, the Secretary of the*

1     *Treasury shall prescribe regulations with respect to the*  
 2     *date on which deposits of such taxes shall be made in*  
 3     *order to minimize the unevenness in the revenue effects*  
 4     *of the amendment made by subsection (a).*

5                     **PART IV—OTHER PROVISIONS**

6     **SEC. 6681. TREATMENT OF DISTRIBUTIONS BY PARTNERSHIPS**  
 7                     **OF CONTRIBUTED PROPERTY.**

8     (a) *GENERAL RULE.*—Subsection (c) of section 704  
 9     *(relating to contributed property) is amended to read as*  
 10    *follows:*

11           “(c) *CONTRIBUTED PROPERTY.*—

12                   “(1) *IN GENERAL.*—Under regulations prescribed  
 13    *by the Secretary—*

14                           “(A) *income, gain, loss, and deduction with*  
 15                   *respect to property contributed to the partnership*  
 16                   *by a partner shall be shared among the partners*  
 17                   *so as to take account of the variation between the*  
 18                   *basis of the property to the partnership and its*  
 19                   *fair market value at the time of contribution, and*

20                           “(B) *if any property so contributed is dis-*  
 21                   *tributed by the partnership (other than to the*  
 22                   *contributing partner) within 3 years of being*  
 23                   *contributed—*

24                                   “(i) *the contributing partner shall be*  
 25                   *treated as recognizing gain or loss (as the*



1           ...case may be) from the sale of such property  
 2           in an amount equal to the gain or loss which  
 3           would have been allocated to such partner  
 4           under subparagraph (A) by reason of the  
 5           variation described in subparagraph (A) if  
 6           the property had been sold at its fair market  
 7           value at the time of the distribution,

8           “(ii) the character of such gain or loss  
 9           shall be determined by reference to the char-  
 10          acter of the gain or loss which would have  
 11          resulted if such property had been sold by  
 12          the partnership to the distributee, and

13          “(iii) appropriate adjustments shall be  
 14          made to the adjusted basis of the contributing  
 15          partner’s interest in the partnership and to  
 16          the adjusted basis of the property distributed  
 17          to reflect any gain or loss recognized under  
 18          this subparagraph.

19          “(2) SPECIAL RULE FOR DISTRIBUTIONS  
 20          WHERE GAIN OR LOSS WOULD NOT BE RECOGNIZED  
 21          OUTSIDE PARTNERSHIPS.—Under regulations pre-  
 22          scribed by the Secretary, if—

23          “(A) property contributed by a partner (here-  
 24          inafter referred to as the ‘contributing partner’) is

1           *distributed by the partnership to another partner,*  
2           *and*

3           “(B) *other property of a like kind (within*  
4           *the meaning of section 1031) is distributed by the*  
5           *partnership to the contributing partner not later*  
6           *than the earlier of—*

7                     “(i) *the 180th day after the date of the*  
8                     *distribution described in subparagraph (A),*  
9                     *or*

10                    “(ii) *the due date (determined with*  
11                    *regard to extensions) for the contributing*  
12                    *partner’s return of the tax imposed by this*  
13                    *chapter for the taxable year in which the dis-*  
14                    *tribution described in subparagraph (A)*  
15                    *occurs,*

16           *then to the extent of the value of the property described*  
17           *in subparagraph (B), paragraph (1)(B) shall be ap-*  
18           *plied as if the contributing partner had contributed to*  
19           *the partnership the property described in subparagraph*  
20           *(B).*

21           “(3) *OTHER RULES.—Under regulations pre-*  
22           *scribed by the Secretary, rules similar to the rules of*  
23           *paragraph (1) shall apply to contributions by a partner*  
24           *(using the cash receipts and disbursements method of*  
25           *accounting) of accounts payable and other accrued but*

1        *unpaid items. Any reference in paragraph (1) or (2) to*  
 2        *the contributing partner shall be treated as including a*  
 3        *reference to any successor of such partner.”*

4        *(b) EFFECTIVE DATE.—The amendment made by sub-*  
 5        *section (a) shall apply in the case of property contributed to*  
 6        *the partnership after October 3, 1989, in taxable years*  
 7        *ending after such date.*

8        **SEC. 6682. ELIMINATION OF RETROACTIVE CERTIFICATION OF**  
 9                                **EMPLOYEES FOR WORK INCENTIVE JOBS**  
 10                              **CREDIT.**

11        *(a) IN GENERAL.—So much of subparagraph (A) of*  
 12        *section 50B(h)(1) of the Internal Revenue Code of 1954 (as*  
 13        *in effect for taxable years beginning before January 1, 1982)*  
 14        *as precedes clause (i) thereof is amended to read as follows:*

15                            *“(A) who has been certified (or for whom a*  
 16                            *written request for certification has been made) on*  
 17                            *or before the day the individual began work for*  
 18                            *the taxpayer by the Secretary of Labor or by the*  
 19                            *appropriate agency of State or local government*  
 20                            *as—”.*

21        *(b) EFFECTIVE DATE.— The amendment made by sub-*  
 22        *section (a) shall apply for purposes of credits first claimed*  
 23        *after March 11, 1987.*

1     ***Subtitle F—Coordination With Budget***  
 2                                     ***Act***

3     ***SEC. 6701. COORDINATION WITH BUDGET ACT.***

4         *Any transfer of outlays, receipts, or revenues pursuant*  
 5     *to this title (including section 6209, 6507, 6631, or 6632) is*  
 6     *a necessary (but secondary) result of a significant policy*  
 7     *change for purposes of section 202 of the joint resolution enti-*  
 8     *tled “Increasing the statutory limit on the public debt”*  
 9     *(Public Law 100–119), approved September 29, 1987.*

10           ***TITLE VII—CIVIL SERVICE AND***  
 11                     ***POSTAL SERVICE PROGRAMS***

12     ***SEC. 7001. BUDGETARY TREATMENT OF THE POSTAL SERVICE***  
 13                                     ***FUND.***

14         ***(a) TREATMENT OF THE POSTAL SERVICE FUND.—***  
 15     ***(1) Chapter 20 of title 39, United States Code, is amended***  
 16     ***by inserting after section 2009 the following new section:***

17     ***“§ 2009a. Budgetary treatment of the Postal Service Fund***

18         ***“Notwithstanding any other provision of law, the re-***  
 19     ***ceipts and disbursements of the Postal Service Fund, includ-***  
 20     ***ing disbursements for administrative expenses incurred in***  
 21     ***connection with the Fund—***

22                 ***“(1) shall not be included in the totals of—***

23                         ***“(A) the budget of the United States Gov-***  
 24                         ***ernment as submitted by the President; or***

1           “(B) the congressional budget (including al-  
2           locations of budget authority and outlays provided  
3           therein);

4           “(2) shall be exempt from any general budget lim-  
5           itation imposed by statute on expenditures and net  
6           lending (budget outlays) of the United States Govern-  
7           ment; and

8           “(3) shall be exempt from any order issued under  
9           part C of the Balanced Budget and Emergency Deficit  
10          Control Act of 1985 (2 U.S.C. 901 et seq.), and shall  
11          not be counted for purposes of calculating the deficit  
12          under section 3(6) of the Congressional Budget and  
13          Impoundment Control Act of 1974 (2 U.S.C. 622(6))  
14          for purposes of comparison with the maximum deficit  
15          amount under the Balanced Budget and Emergency  
16          Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) nor  
17          counted in calculating the excess deficit for purposes of  
18          sections 251 and 252 of the Balanced Budget and  
19          Emergency Deficit Control Act of 1985 (2 U.S.C. 901  
20          and 902), for any fiscal year.”

21          (2) The table of sections for chapter 20 of title 39,  
22          United States Code, is amended by inserting after the  
23          item relating to section 2009 the following:

“2009a. Budgetary treatment of the Postal Service Fund.”

24          (b) CONSTRUCTION.—Nothing in any amendment  
25          made by subsection (a) shall be considered to diminish the

1 oversight authority of the Congress under law, rule, or regu-  
 2 lation with respect to the budget and operations of the United  
 3 States Postal Service.

4 (c) *APPLICABILITY.*—The amendments made by this  
 5 section shall apply with respect to budgets for fiscal years  
 6 beginning after September 30, 1989.

7 **SEC. 7002. FUNDING OF COST-OF-LIVING ADJUSTMENTS FOR**  
 8 **CERTAIN POSTAL SERVICE ANNUITANTS AND**  
 9 **SURVIVOR ANNUITANTS.**

10 (a) *DEPOSIT OF CERTAIN FUNDS IN FISCAL YEAR*  
 11 *1990.*—From the funds available to the United States Postal  
 12 Service in fiscal year 1990, the Postal Service shall deposit  
 13 into the Civil Service Retirement Fund established under  
 14 section 8348 of title 5, United States Code, an amount equal  
 15 to \$400,000,000 at the end of fiscal year 1990. Such pay-  
 16 ment shall be considered as a prior year's loss for purposes of  
 17 adjusting postal rates under part IV of title 39, United  
 18 States Code.

19 (b) *UNFUNDED LIABILITY OF POSTAL SERVICE.*—  
 20 Section 8348 of title 5, United States Code, is amended by  
 21 adding at the end thereof the following new subsection:

22 “(m)(1) Notwithstanding any other provision of law, the  
 23 United States Postal Service shall be liable for that portion  
 24 of any estimated increase in the unfunded liability of the  
 25 Fund which is attributable to any benefits payable from the

1 *Fund to former employees of the Postal Service who first*  
2 *become annuitants by reason of separation from the Postal*  
3 *Service on or after October 1, 1990, or to their survivors, or*  
4 *to the survivors of individuals who die on or after October 1,*  
5 *1990, while employed by the Postal Service, when the in-*  
6 *crease results from a cost-of-living adjustment under section*  
7 *8340 of this title.*

8       “(2) *The estimated increase in the unfunded liability*  
9 *referred to in paragraph (1) of this subsection shall be deter-*  
10 *mined by the Office after consultation with the Postal Serv-*  
11 *ice. The Postal Service shall pay the amount so determined*  
12 *to the Office in 15 equal annual installments with interest*  
13 *computed at the rate used in the most recent valuation of the*  
14 *Civil Service Retirement System, with the first payment*  
15 *thereof due at the end of the fiscal year in which the cost-of-*  
16 *living adjustment with respect to which the payment relates*  
17 *becomes effective.*

18       “(3) *In determining the amount for which the Postal*  
19 *Service is liable under this subsection in cases in which the*  
20 *benefits involved are based on service of an individual who*  
21 *performed 1 or more forms of service besides employment*  
22 *with the Postal Service, the amount of the Postal Service's*  
23 *liability shall be prorated to reflect only that portion of total*  
24 *service which is attributable to employment with the Postal*  
25 *Service.”.*

1 **SEC. 7003. FUNDING OF HEALTH BENEFIT PREMIUMS FOR SUR-**  
 2 **VIVORS OF EMPLOYEES AND FORMER EMPLOY-**  
 3 **EES OF THE POSTAL SERVICE.**

4 (a) *GENERALLY.*—Section 8906(g)(2) of title 5,  
 5 *United States Code*, is amended by inserting “or for a survi-  
 6 vor of such an individual or of an individual who died on or  
 7 after October 1, 1986, while employed by the United States  
 8 *Postal Service*,” after “1986,”.

9 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
 10 section (a) shall take effect on October 1, 1989, and shall  
 11 apply with respect to amounts payable for periods beginning  
 12 on or after that date.

13 **SEC. 7004. PARTIAL DEFERRED PAYMENT OF LUMP-SUM CREDIT**  
 14 **FOR CERTAIN INDIVIDUALS ELECTING ALTERNA-**  
 15 **TIVE FORMS OF ANNUITIES.**

16 (a) *IN GENERAL.*—Notwithstanding any other provi-  
 17 sion of law, and except as provided in subsection (c), any  
 18 lump-sum credit payable to an employee or Member pursuant  
 19 to the election of an alternative form of annuity by such em-  
 20 ployee or Member under section 8343a or section 8420a of  
 21 title 5, *United States Code*, shall be paid in accordance with  
 22 the schedule under subsection (b) (instead of the schedule  
 23 which would otherwise apply), if the commencement date of  
 24 the annuity payable to such employee or Member occurs after  
 25 September 30, 1989, and before October 1, 1990.



1       (b) *SCHEDULE OF PAYMENTS.*—*The schedule of pay-*  
2 *ment of any lump-sum credit subject to this section is as*  
3 *follows:*

4           (1) *50 percent of the lump-sum credit shall be*  
5 *payable on the date on which, but for the enactment of*  
6 *this section, the full amount of the lump-sum credit*  
7 *would otherwise be payable.*

8           (2) *The remainder of the lump-sum credit shall be*  
9 *payable on the date which occurs 12 months after the*  
10 *date described in paragraph (1).*

11 *An amount payable in accordance with paragraph (2) shall*  
12 *be payable with interest, computed using the rate under sec-*  
13 *tion 8334(e)(3) of title 5, United States Code.*

14       (c) *EXCEPTIONS.*—*The Office of Personnel Manage-*  
15 *ment shall prescribe regulations under which this section*  
16 *shall not apply in the case of any individual as to whom the*  
17 *application of this section would be against equity and good*  
18 *conscience, due to a life-threatening affliction or other critical*  
19 *medical condition affecting such individual.*

20       (d) *ANNUITY BENEFITS NOT AFFECTED.*—*Nothing in*  
21 *this section shall affect the commencement date, the amount,*  
22 *or any other aspect of any annuity benefits payable under*  
23 *section 8343a or section 8420a of title 5, United States*  
24 *Code.*

1       (e) *DEFINITIONS.*—For purposes of this section, the  
 2 terms “lump-sum credit”, “employee”, and “Member” each  
 3 has the meaning given such term by section 8331 or section  
 4 8401 of title 5, United States Code, as appropriate.

5       **TITLE VIII—COMMITTEE ON LABOR**  
 6               **AND HUMAN RESOURCES**  
 7               **Subtitle A—Pension Plans**

8       **SEC. 8001. EMPLOYEE RETIREMENT INCOME SECURITY.**

9       (a) *PREMIUM RATES.*—Section 4006(a)(3)(A)(i) of  
 10 such Act (29 U.S.C. 1306(a)(3)(A)(i)) is amended by strik-  
 11 ing “\$16” and inserting “\$18”.

12       (b) *USE OF AMOUNT GAINED THROUGH INCREASE*  
 13 *IN PREMIUM RATES.*—

14               (1) *TREASURY.*—Additional amounts collected  
 15 under section 4006(a)(3)(A)(i) of the Employee Retire-  
 16 ment Income Security Act of 1974 (29 U.S.C.  
 17 1306(a)(3)(A)(i)) pursuant to the amendment made by  
 18 subsection (a) shall be credited on-budget as an offset-  
 19 ting receipt to the General Fund of the Treasury for  
 20 fiscal year 1990.

21               (2) *AUTHORIZATION OF APPROPRIATIONS.*—  
 22 There are authorized to be appropriated to the fund es-  
 23 tablished under section 4005(f) of the Employee Re-  
 24 tirement Income Security Act of 1974 (29 U.S.C.  
 25 1305(f)) for fiscal year 1990, an amount equal to the

1        *additional amounts collected under section*  
 2        *4006(a)(3)(A)(i) of such Act pursuant to the amend-*  
 3        *ment made by subsection (a).*

## 4                    ***Subtitle B—Education***

### 5                    ***HIGHER EDUCATION AMENDMENTS***

#### 6        ***SEC. 8101. SHORT TITLE.***

7            *This subtitle may be cited as the “Medical Residents’*  
 8        *Student Loan Amendments Act of 1989”.*

#### 9        ***SEC. 8102. DEFERMENTS.***

10        *(a) FEDERALLY INSURED STUDENT LOANS.—Section*  
 11        *427(a)(2)(C)(i) of the Higher Education Act of 1965, as*  
 12        *amended (hereinafter referred to as the “Act”) is amended by*  
 13        *striking out the semicolon at the end thereof and inserting in*  
 14        *lieu thereof a comma and “provided that no borrower shall be*  
 15        *eligible for a deferment under this clause, or a loan made*  
 16        *under this part, while serving in a medical internship or resi-*  
 17        *dency program;”.*

18        *(b) FEDERAL PAYMENTS TO REDUCE STUDENT IN-*  
 19        *TEREST COSTS.—Section 428(b)(1)(M)(i) of the Act is*  
 20        *amended by striking out the semicolon at the end thereof and*  
 21        *inserting in lieu thereof a comma and “provided that no bor-*  
 22        *rower shall be eligible for a deferment under this clause, or*  
 23        *loan made under this part, while serving in a medical intern-*  
 24        *ship or residency program;”.*

1       (c) *LOAN AGREEMENTS.*—Section 464(c)(2)(A)(i) of  
 2 the Act is amended by striking out the semicolon at the end  
 3 thereof and inserting in lieu thereof a comma and “provided  
 4 that no borrower shall be eligible for a deferment under this  
 5 clause, or a loan made under this part, while serving in a  
 6 medical internship or residency program;”.

7       (d) *EFFECTIVE DATE.*—The amendments made by this  
 8 section shall be effective for any loan made, insured, or guar-  
 9 anteed under part B or part E of title IV of the Act, includ-  
 10 ing a loan made before the enactment of this Act, and shall  
 11 take effect on October 1, 1989, except that such amendments  
 12 shall not apply with respect to any portion of a period of  
 13 deferment granted to a borrower under section  
 14 427(a)(2)(C)(i), 428(b)(1)(M)(i), or 464(c)(2)(A)(i) of the  
 15 Act for service in a medical internship or residency program  
 16 that is completed prior to the effective date of this section.

17 **SEC. 8103. FORBEARANCE.**

18       (a) *FEDERAL PAYMENTS TO REDUCE STUDENT IN-*  
 19 *TEREST COSTS.*—Section 428 of the Act is amended—

20               (1) in subsection (b)(1)—

21                       (A) in subparagraph (T), by striking out  
 22                       “and” at the end thereof;

23                       (B) in subparagraph (U), by striking out the  
 24                       period at the end thereof and inserting in lieu  
 25                       thereof a semicolon and “and”; and

1           (C) by adding at the end thereof the follow-  
2           ing new subparagraph:

3           “(V)(i) provides that, upon written request, a  
4           lender shall grant a borrower forbearance, renew-  
5           able at 12-month intervals, for a period equal to  
6           the length of time remaining in the borrower’s  
7           medical or dental internship or residency program  
8           on such terms as are otherwise consistent with the  
9           regulations of the Secretary, and agreed upon in  
10          writing by the parties to the loan with the approv-  
11          al of the insurer, if the borrower—

12           “(I) is serving in a medical or dental  
13          internship or residency program, the success-  
14          ful completion of which is required to begin  
15          professional practice or service, or serving in  
16          a medical or dental internship or residency  
17          program leading to a degree or certificate  
18          awarded by an institution of higher educa-  
19          tion, a hospital, or a health care facility that  
20          offers postgraduate training; and

21           “(II) has exhausted his or her eligibil-  
22          ity for a deferment under section  
23          427(a)(2)(C)(vii) or subparagraph (M)(vii)  
24          of this paragraph; and

1           “(i) provides that no administrative or other  
2           fee may be charged in connection with the grant-  
3           ing of a forbearance under clause (i), and that no  
4           adverse information regarding a borrower may be  
5           reported to a credit bureau organization solely be-  
6           cause of the granting of a forbearance under  
7           clause (i).”; and

8           (2) by amending subsection (c)(3) to read as  
9           follows:

10           “(3) *FORBEARANCE*.—A guaranty agreement  
11           under this subsection—

12           “(A) shall contain provisions providing for  
13           forbearance in accordance with subsection  
14           (b)(1)(V) for the benefit of the student borrower  
15           serving in a medical or dental internship or resi-  
16           dency program; and

17           “(B) may, to the extent provided in regula-  
18           tions of the Secretary, contain provisions that  
19           permit such forbearance for the benefit of the stu-  
20           dent borrower as may be agreed upon by the par-  
21           ties to an insured loan and approved by the insur-  
22           er. Such regulations shall not preclude guaranty  
23           agencies from permitting the parties to such a  
24           loan from entering into a forbearance agreement  
25           solely because the loan is in default.”.

1       (b) *APPLICABILITY.*—*The amendments made by this*  
2 *section shall apply with respect to loans made before, on, or*  
3 *after the date of enactment of this Act.*

4 **SEC. 8104. SUPPLEMENTAL LOANS FOR STUDENTS.**

5       Section 428A(b)(4) of the Higher Education Act of  
6 1965 is amended by—

7           (1) inserting “(A)” after the paragraph designa-  
8       tion; and

9           (2) by adding the following new subparagraph at  
10       the end thereof:

11               “(B) In the case of any borrower who, on the  
12       date of entering into the note or other written evi-  
13       dence of the loan, has not successfully completed  
14       the first year of a program of undergraduate edu-  
15       cation, the financial aid administrator shall not  
16       certify the borrower’s eligibility for a loan under  
17       this section until a date which will ensure that the  
18       first disbursement of such loan to such borrower  
19       does not occur until the borrower has attended the  
20       institution for 30 days during the period of enroll-  
21       ment for which the loan was made.”.

22 **SEC. 8105. DISCRETIONARY INFORMATION FEE PROHIBITED.**

23       The Higher Education Act of 1965 is amended—

24           (1) in section 411F(12)(D) by inserting the fol-  
25       lowing new sentence at the end thereof: “No student or

1     *parent may be charged a fee for supplying any supple-*  
2     *mentary information or documentation to a financial*  
3     *aid administrator pursuant to the provisions of this*  
4     *paragraph”;*

5             *(2) in section 479A(a) by—*

6                 *(A) striking “Nothing” and inserting “(1)*  
7             *Nothing”;*

8                 *(B) inserting the following new paragraph at*  
9             *the end thereof:*

10             *“(2) No student or parent may be charged a fee*  
11             *for supplying any supplementary information or docu-*  
12             *mentation to a financial aid officer pursuant to the*  
13             *provisions of paragraph (1)”;*

14             *(3) in section 480(d)(4) by inserting at the end*  
15             *thereof the following new sentence: “No student or*  
16             *parent may be charged a fee for supplying any supple-*  
17             *mentary information or documentation to a financial*  
18             *aid administrator pursuant to the provisions of this*  
19             *paragraph”; and*

20             *(4) in section 483(a)(1) by striking the period at*  
21             *the end thereof and inserting in lieu thereof “(except as*  
22             *provided in sections 411F(12)(D), 479A(a)(2), and*  
23             *480(d)(4)).*



1     ***TITLE IX—VETERANS PROGRAMS***

2     ***SEC. 9001. HOME LOAN GUARANTY PROGRAM.***

3     (a) *ONE-YEAR EXTENSION OF LOAN FEE.*—Section  
4     1829(c) of title 38, United States Code, is amended by strik-  
5     ing out “September 30, 1989” and inserting in lieu thereof  
6     “September 30, 1990”.

7     (b) *ONE-YEAR POSTPONEMENT OF RESTRICTIONS ON*  
8     *WITHOUT-RECOURSE VENDEE LOAN SALES.*—Section  
9     1833(a)(3) of title 38, United States Code, is amended by  
10    striking out “October 1, 1989” each place it appears and  
11    inserting in lieu thereof “October 1, 1990”.

*Attest:*

*Secretary.*

101ST CONGRESS  
1ST SESSION

**H. R. 3299**

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**AMENDMENT**

**October 18 (legislative day, September 18),  
1989**

**Ordered to be printed as passed**